

Legitimation Crisis



INTERVIEW: Lebanese intellectual Chibli Mallat outlines principles for non-violent change in Iran

By **GARETH SMYTH** in Beirut

[TEHRAN BUREAU] A leading academic authority on Shia Islam has put forward proposals around which he believes advocates of non-violent change in Iran can agree.

Chibli Mallat, the Lebanese lawyer and intellectual, has recently published “A Legal Manifesto for Iran’s Green Revolution” in Beirut in Arabic and English in the An-Nahar and Daily Star newspapers.

Mallat, 48, is best known internationally for his role in establishing Indict, the campaign to try Saddam Hussein for war crimes, and for opening a Belgian legal case against Ariel Sharon for the 1982 massacres in the Sabra and Shatilla Palestinian camps in Beirut.

But the work that brought Mallat wide academic recognition was his 1993 study* of Mohammad Baqr Sadr, the Iraqi Shia scholar, killed by Saddam, who pioneered the idea of an Islamic Republic long before Ruhollah Khomeini gave his famous Najaf lectures in 1970.

Mallat looks back to Sadr in saying that Iran’s Islamic Republic can be reformed if some “relatively small changes” can be achieved. “I disagree with those who say the situation is hopeless. Although, clearly, if the Islamic Republic doesn’t change meaningfully, then it will have lost its legitimacy among the population.”

As a vocal supporter of Lebanon’s 2005 “cedar revolution,” Mallat is no stranger to mass demonstrations. And as a trenchant critic of Syria, he is no stranger to putting his neck out. But he argues that Iran cannot be considered “fully authoritarian.”

“Iran is a very vibrant society. Discussions in Qom are very vibrant. The parliament is very vibrant. This is not Syria, Saudi Arabia, or the Iraq of old.”

The two central issues to address, he says, are the Council of Guardians and the leader (*rahbar*).

The Guardian Council, he argues, is exercising its powers in an arbitrary fashion. “The threshold of exclusivity [in vetting candidates for elections] is too high, and the notion of ‘lack of conformity to Islam’ is unacceptable.”

Secondly, Mallat argues there is “discrepancy between Iran’s system of leadership and the Shia tradition.”

In traditional Shia Islam, he points out, the pre-eminent *marja* (guide) was chosen by consent. First of all followers, *muqallid*, chose their *marja* and then the pre-eminent *marja* emerged by consent among senior clerics.

“The *marja* was chosen both by the *muqallid* and by peer recognition,” he says. “**The Assembly of Experts**, as an institution, is derived from this. The people elect the experts and they choose the leader.”

But this, he argues, only points to the problem exposed by Ayatollah Ali Khamenei’s leadership, even before his recent backing of Mahmoud Ahmadinejad and his ruling that the presidential election was fair in advance of an enquiry.

“It’s clear that a majority of the Assembly are opposed to Ayatollah Khamenei, or at least don’t hold him in the esteem owed to the supreme *marja*,” says Mallat. “But if we return to Sadr, his view was that the leader [in an Islamic Republic] could not be chosen other than through a basic consensus of society coupled with a basic agreement among his peers.”

For Mallat, it is not enough to demand vague notions like “democracy” or “freedom.” Constitutional change should be specific.

In Iraq, he oversees a project, funded by the US state department, to reshape the country’s laws in the post-Baathist era. This continues work Mallat began around 1990 in arguing among the opposition to Saddam for a democratic, federal constitution. But he argues Iraq’s new laws have to be rooted in the realities of the country, including Islam.

“Iraq is an interesting example, where Ayatollah [Ali] Sistani has no direct political role. This does not mean he does not yield immense influence on the body politic. In part, his moral suasion is immense.

“Under the Iraqi constitution, any law must respect human rights and democracy, and it must also respect the basic principles of Islam. By contrast, the Iranian constitutional system has grown to straitjacket unduly the democratic dimension of Shi’i society.”

For Iran, he argues, proponents of non-violent change should agree on a set of principles, based around the rule of law.

“Article 27 of the Iranian Constitution guarantees the right to peaceful demonstrations as long as arms are not carried and as long as the fundamental principles of Islam are not threatened. With people on rooftops shouting ‘Allahu Akbar’, doubts over the Islamic character of the revolt are hard to sustain. If the executive doesn’t set up an enquiry into the deaths of demonstrators, then parliament should do so under Article 90.”

Change in Iran, he accepts, will be far from easy, but is part of a process going back over a century.

“What’s going on in Iran today reminds me of the cedar revolution in Lebanon, a combination of feeling and people’s expectations against a repressive regime ... But the [Iranian] regime derives its legitimacy from the 1979 Revolution, and this was a popular revolution whose own legitimacy derived from resistance to the dictatorship of the Shah.”

Mallat is encouraged by Barack Obama’s acknowledgment in his speech in Cairo last month that the US had in 1953 “played a role in the overthrow of a democratically-elected Iranian government.”

“Given the coup of 1953 established the Shah in power, this is an admission that US support for the Shah was ill-advised. Of course, this doesn’t prevent the US continuing its ill-advised support for the Mubarak dictatorship in Egypt – but it is nonetheless now more hollow to justify authoritarian practices in Iran just because of the behaviour of America.”

**Chibli Mallat 'The Renewal of Islamic Law: Mohammad Baqer as-Sadr, Najaf and the Shii International', Cambridge UP, 1993; Mallat's most recent book is 'Introduction to Middle Eastern Law', Oxford UP, 2007*

Copyright © 2009 Tehran Bureau