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Ayatullah Seyyed Mostafa Mohaghegh Damad is an Iranian Shia cleric, and reformist who has been called "a leading instructor" in Iran's major seminary city of Qom. He has served as Chairman of the Commission of Compiling Judicial Acts and a Judge in the Ministry of Justice. His English publications include 'Protection of Individuals in Times of Armed Conflict Under International and Islamic Laws and Religion, Philosophy and Law: A Collection of Articles and Papers.' He received his PhD in Law from the Catholic University of Louvain, Belgium and his BA and MA from the University of Tehran.

ABSTRACT: "Shiite Continuous *Ijtihad* in Dealing with the Issues of the Present Age"

Most Islamic fuqahā have from the earliest times tried to harmonize the tensions between social demands and the "Shari'a", interpreting sacred texts in a way as to make religious laws as acceptable to conventions as possible in order to avoid any social friction, except for cases of direct opposition between the two, when there would be no other choice but to stop the convention, an act called rada' ("prohibiting") in Islamic terminology. On this matter, the different schools of ijtiḥād have pursued different ways and offered their own proposals, among which one can mention the theories of expediencies ("masālih"), of aims ("maqāsid"), and of cause and philosophy ("illah va hilmah").

In our times, the main challenge for Islamic jurisprudence is the issue of human rights, for which the fuqahā must formulate theories based on general principles and rules of Islamic fiqh. Hereby, the main task is finding out the adequate general principles and rules, some of which count as belonging to fiqh proper and some to a stage prior to fiqh.

Shi'ite ijtiḥād certainly is capable of being applied on the basis of rational principles of justice and human dignity, which means that to obtain judicial verdicts these two principles can be seen as logically prior to other principles, and not alongside them. In our opinion, this method can enable Islamic fiqh to take up the challenge posed by issues concerning human rights. The present paper tries to prove this assertion.