Greco-Islamic Philosophy and Islamic Jurisprudence in the Ottoman Empire (1300-1600): Aristotle's Theory of Sciences in Works on *Uṣūl al-Fiqh*

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Osmanlı İmparatorluğu'nda Yunan-İslâm Felsefesi ve Fıkıh İlmi (1300-1600): Usûl-i Fıkıh Çalışmalarında Aristo'nun Bilimler Teorisi

Öz ■ Bu makale Osmanlı İmparatorluğu'nun merkezi topraklarında 1300-1600 yılları arasında dini ilimlerdeki gelişmelerin özelliklerinin tespit edilmesi yolunda küçük bir katkı sunmayı hedeflemektedir. Bu makalede Osmanlı usûl-i fıkh yazarlarının bu ilmin tabiatı ve içeriğine dair düşünceleri incelenmektedir. Bu yazarlar Aristo mantığını benimseyen ve bunu kitaplarında kullanan seleflerinin görüşlerini benimsediler ve geliştirdiler. Onlara göre usûl-i fıkh ve füru-ı fıkhı kapsayan fıkıh ilmi Aristo'nun bir araştırma dalının bilim olarak adlandırılabilmesi için gerekli gördüğü tüm şartları taşıyordu ve bu ispatlanabilirdi.

Anahtar kelimeler: Fıkıh; usûl-i fıkh; felsefe; Aristo mantığı; bilimler teorisi; Osmanlı İmparatorluğu'nda hukuk çalışmaları.

A. Introduction

Until the eleventh century, Islamic religious scholars had a cool attitude toward philosophy and Aristotelian logic. They considered the first as the reflection on issues related to religion on the basis of pure reason, and the second as its method.[1] The point of departure for scholars was the scriptural texts, the Qur'an and *ḥadith* (reports of the prophetic tradition). Thus, *uṣūl al-fiqh* (theo-

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1 Nicholas Rescher, *The Development of Arabic Logic* (Pittsburgh: University of Pittsburgh Press, 1964),40-42; Wael B. Hallaq, "Introduction," in his *Ibn Taymiyya Against the Greek Logicians* (Oxford: Clarendon Press, 1993), xlii-xliii, and Ignaz Goldziher,

retical jurisprudence) and other religious disciplines developed while having only a minimal relationship to the philosophical tradition and Aristotelian logic. [2] However, after the eleventh century when philosophy and religious studies became mature,[3] these two strands of knowledge interacted to such a degree that the distinction between them was gradually blurred.[4] Those with a philosophical inclination adopted scholars' major assumptions and produced works that could be considered a contribution to a particular religious discipline. Meanwhile, religious scholars studied and cited the works of philosophers, especially Ibn Sīnā (d. 1037), and also adopted their discursive language, concepts, proofs, themes, and methods.[5]

"The Attitude of Orthodox Islam toward the Ancient Sciences," in *Studies on Islam*, trans. Merlin L. Swartz, 185-215 (New York: Oxford University Press, 1981).

2 Ayman Shihadeh, "From al-Ghazali to al-Razi: 6th/12th Century Developments in Muslim Philosophical Theology," *Arabic Sciences and Philosophy* 15, no.1 (2005): 147. See also Tuncay Başoğlu, "Hicri Beşinci Asır Fıkıh Usulü Eserlerinde İllet Tartışmaları" (Ph.D. diss., Marmara University, 2001), 21. Certain elements in the inquiry of experts of religious disciplines suggested the influences of Stoic logic. For this, see Brunschvig, Robert. "Logique et droit dans l'Islam classique," in his *Études d'Islamologie*, 2 vols. (Paris: G.-P. Maisonneuve et Larose, 1976), 2:347-61. Nabil Shehaby, "The Influence of Stoic Logic on al-Jaṣṣāṣ's Legal Theory," in *The Cultural Context of Medieval Learning*, eds. John Emery Murdoch and Edith Dudley Sylla, 61-75 (Boston: D. Reidel Publishing Company, 1973).

3 Wael B. Hallaq, "Was al-Shafi'i the Master Architect of Islamic Jurisprudence?" *International Journal of Middle East Studies* 25, no.4 (1993): 587-605.

4 Marshall G. Hodgson, *The Venture of Islam*, 3 vols. (Chicago and London: The University of Chicago Press, 1974), 2:152-54.

5 For Avicenna's influence, see Dimitri Gutas, "The Heritage of Avicenna: The Golden Age of Arabic Philosophy, 1000-ca. 1350," in *Avicenna and His Heritage*, eds. Jules Janssens and Daniel De Semet, 81-97 (Leuven: Leuven University Press, 2002); Robert Wisnovsky, "Avicenna and the Avicennian Tradition," in *The Cambridge Companion to Arabic Philosophy*, eds. Peter Adamson and Richard C. Taylor, esp. 127-33 (Cambridge: Cambridge University Press, 2005); idem., "One Aspect of the Avicennian Turn in Sunnī Theology," *Arabic Sciences and Philosophy* 14, no.1 (2004): 65-100; Toby Mayer, "Theology and Sufism," in *Classical Islamic Theology*, ed. Tim Winter, 274-80 (Cambridge: Cambridge University Press, 2008); Ahmed H. Al-Rahim, "The Šwelver Ṭī'ī Reception of Avicenna in the Mongol Period," in *Before and after Avicenna: Proceedings of the First Conference of the Avicenna Study Group*, eds. David C. Reisman and Ahmed H. Al-Rahim, 219-31 (Leiden and Boston: Brill, 2003); Khaled El-Rouayheb, "Opening the Gate of Verification: The Forgotten Arab–Islamic Florescence of the 17th Century," *International Journal of Middle East Studies* 38, no.2 (2006): 263-81.

In this essay, I explore an aspect of this interaction by examining the conceptions of Islamic jurisprudence by scholars who lived in the Ottoman central lands from the fourteenth to the sixteenth centuries. I contend that following and developing the approach of several Muslim theoreticians, they adopted Aristotle's theory of sciences and presented Islamic jurisprudence as a science with the standards of this theory. In their view, the edifice of Islamic legal knowledge was constructed via inferences based upon premises, the validity and certainty of which could be corroborated externally.

According to Aristotle's theory of sciences, knowledge becomes scientific only when substantiated through proofs in the form of demonstration (*burhān*)—that is, a syllogism based on true and certain premises. Scientific knowledge is not an undifferentiated whole; rather, it has branches: the particular sciences, each one of which has a particular and definite subject matter (*mawḍūʿ*) that it investigates and about which it establishes conclusions in a systematic way. In addition, every science has postulates (*mabādiʾ*) that it accepts as true without providing proof and on the basis of which it builds arguments about the subject matter.[6] The following examination of the parts of *uṣūl al-fiqh* works, related to this discipline's subject matter, postulates, and definitions, will reveal that theoreticians deliberately followed this theory and tried to prove its applicability to their area of interest.

Ottoman scholars under study, Alāʾ al-Dīn al-Aswad (d. 1397), Shams al-Dīn al-Fanārī (d. 1431), Mollā Khusraw (d. 1480), Ḥasan al-Fanārī (d. 1486), Mollā Kirmastī (d. 1494), Ibn Kamāl (d. 1534), and Aḥmad Tashkoprīzāda (d. 1561), received and elaborated the ideas, on the scientific nature of Islamic jurisprudence, of a group of theoreticians, including Abū al-Ḥusayn al-Baṣrī (d. 1044), Abū Ḥāmid al-Ghazzālī (d. 1111), Fakhr al-Dīn al-Rāzī (d. 1210), Sayf al-Dīn al-Āmidī (d. 1233), Ibn al-Ḥājib (d. 1249) Ḥāfiẓ al-Dīn al-Nasafī (d. 1311), Ṣadr al-Sharīʿa ʿUbayd Allāh al-Maḥbūbī (d. 1346), Saʿd al-Dīn al-Taftāzānī (d. 1390) all of whom took Aristotle's theory seriously and put it in use in their works on *uṣūl al-fiqh*.

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6 John Herman Randall, *Aristotle* (New York and London: Columbia University Press, 1960), 35-41; W. D. Ross, *Aristotle: A Complete Exposition of His Works and Thought* (New York: Meridian Books, 1959), 44-52; Michael Ferejohn, *The Origins of Aristotelian Science* (New Haven and London: Yale University Press, 1991), 15-61; Malcolm Wilson, *Aristotle's Theory of the Unity of Science* (Toronto: University of Toronto Press, 2000), 5-9, and Ibn Sīnā, *Al-Shifāʾ al-Mantiq*, eds. Ibrāhīm Madkūr and Abū al-ʿUlā al-ʿAfīfī, 4 vols. (Cairo: Al-Hayʾa al-ʿĀmma, 1965), 3:155-61. See also Dimitri Gutas, *Avicenna and the Aristotelian Tradition* (Leiden: Brill, 1988), 177-81 and 219-21.

It is difficult (and perhaps useless) to distinguish and focus on Ottoman scholars' original contributions to the relevance of Aristotelian logic in *uṣūl al-fiqh*. They mostly wrote commentaries on the former works. Even when they did compose original works, they were engaged in dialogue with their predecessors. For example, in some cases a scholar under study might adopt the idea of an earlier author and mention it without any comment or criticism. In another case, he might criticize and amend an aspect of his predecessor's opinion. In other cases, he might reject all existing views and suggest an alternative. The authors and readers were so familiar with all of the relevant opinions that they often did not quote the adopted or rejected opinion completely. For this, I refer to the original provenance of the views adopted, amended, criticized, or rejected by Ottoman scholars under discussion.

B. The Conception of Islamic Jurisprudence as a Scientific Endeavor

Here, I will examine the introductory sections of *uṣūl al-fiqh* works written by Ottoman scholars and those on which they wrote commentaries or referred to in their original works.

1. The Subject Matter of *Uṣūl al-Fiqh*

The influence of Aristotle's theory of sciences on the *uṣūl al-fiqh* authors is the most salient in the discussion of its subject matter. According to Aristotle, the scientific process starts with setting down a subject matter; obviously, it is necessary to know the subject matter before starting the scientific inquiry.[7] This subject matter, defined as "a thing whose inseparable accidents are searched,"[8] usually served as the "subject" and the inseparable accidents as the "predicate" in a scientific proposition. Thus, the theoreticians were tasked with determining the genus or genera under which different subjects in the discipline's propositions could be subsumed. The consistency of all issues and their combination in a systematic way were recognized as being among the particular science's essential features. Some scholars insisted on marking this consistency by highlighting a single concept as the subject matter. For them, each subject matter needed to be investigated in a different science; if there were more than one subject matter, the

7 Ross, *Aristotle*, 46.

8 For example, see Sa'd al-Dīn al-Taftāzānī, *Al-Talwīḥ 'alā al-Tawḍīḥ*, 2 vols. (Beirut: Dār al-Kutub al-'Ilmiyye, 1996), 1: 37; Shams al-Dīn al-Fanarī, *Fuṣūl al-Badā'i' fī Uṣūl al-Sharā'i'*, 2 vols. (Istanbul: Şeyh Yahya Efendi Matbaası, 1289[1872/73]), 1:11, and Mollā Khusraw, *Mir'āt al-Uṣūl* (Cairo: 1296 [1878/79]), 12.

number of sciences must multiply accordingly. Others claimed that if there was harmony between two or more concepts, they could become the subject matter of a single science at the same time.

Discussion of the sources (*al-adilla*) and assessments (*al-aḥkām*) of law occupied significant portions in *uṣūl al-fiqh* books. Most theoreticians identified the Qur'ān, the prophetic tradition (*sunna*), consensus (*ijmā'*), and analogy (*qiyās*) as the only valid sources of law.[9] Other scholars, such as Ḥāfiẓ al-Dīn al-Nasafī and Mollā Kirmastī, argued that analogy depended on the other three and thus could not be an independent source of law.[10] Additional sources, like juristic preference (*istiḥsān*), presumption of continuity (*istiṣḥāb*), and public interest (*istiṣlāh*), were discussed and usually subsumed under one of the four sources. In addition, conventionally, these books included sections on issues related to assessments (*aḥkām*) the law attached to specific acts and situations. These sections defined the relative categories: obligatory (*wājib*), forbidden (*ḥarām*), recommended (*mandūb*), disapproved (*makrūh*), neutral (*mubāḥ*), valid (*ṣaḥīḥ*) and invalid (*bāṭil*). The one who has the right to impose these assessments (*ḥākim*), the categories of acts and situations to which the assessments are assigned (*maḥkūm bi-h*), and the individuals on whom they are imposed (*maḥkūm 'alay-h*) were also examined.[11]

Al-Ghazzālī, Ibn al-Ḥājib, al-Āmidī, Shams al-Dīn al-Fanārī, and other scholars declared that only the sources of law (*al-adilla al-shar'iyya*) constituted the subject matter of this particular discipline.[12] They opened their books with the issues related to the assessments. For the sake of consistency, Ibn al-Ḥājib, al-Āmidī, and Shams al-Dīn al-Fanārī stated that the assessments were not part of this discipline,

9 'Alā' al-Dīn al-Aswad, *Kunūz al-Anwār* (MS. Nurosmaniye Kütüphanesi 1334), 4b; Shams al-Dīn al-Fanārī, *Fuṣūl al-Badā'i'*, 1:11-12, and Aḥmad Tashkoprīzāda, *Miftāḥ al-Sa'āda wa-Miṣbāḥ al-Siyāda fi Mawḍuāt al-'Ulūm*, 3 vols. (Beirut: Dār al-Kutub al-'Ilmiyye, 2002), 2:163.

10 For example, see Ḥāfiẓ al-Dīn al-Nasafī, *Matn al-Manār* (Istanbul: Maṭba'a-i Aḥmad Kāmil, 1326[1908/09]), 2; Mollā Kirmastī, *Al-Wajīz* (MS. Süleymaniye Kütüphanesi, İzmir 816), 1b; idem., *Al-Madārik al-Aṣliyya*, (MS. Süleymaniye Kütüphanesi, Laleli 784), 2a.

11 For example, Shams al-Dīn al-Fanārī, *Fuṣūl al-Badā'i'*, 1:159-324, and Mollā Khusraw, *Mir'āt al-Uṣūl*, 275-365.

12 Abū Ḥāmid al-Ghazzālī, *Al-Mustaṣfā*, 2 vols. (Baghdad: Maktaba al-Muthannā, 1970), 1:5-7; Sayf al-Dīn al-Āmidī, *Al-Iḥkām fi Uṣūl al-Aḥkām*, 4 vols. (Riyadh: Dār al-Sumay'ī, 2003), 1:21-22 and 109-215; Ibn al-Hājib, *Mukhtaṣar al-Muntahā* (Cairo: Matba'a-i Kurdistān al-'Ilmīyya, 1326 [1908/09]), 3 and 29-45, and Shams al-Dīn al-Fanārī, *Fuṣūl al-Badā'i'*, 1:15-16 and 159-324.

but rather were among its postulates.[13] Mollā Kirmastī, who also singled out the sources of law as the subject matter of this science, justified the examination of the assessments as part of this discipline by saying "the subject matter of *uṣūl al-fiqh* …[are] the Qur'ān, the prophetic tradition and consensus inasmuch as the assessments of law depend on them, and a person extracted the assessments from them."[14] To paraphrase, the sources of law are investigated to discover their particular aspects, which have a bearing on the discovery of assessments.

It seems that the reason for this insistence on distinguishing the sources of law as the subject matter of *uṣūl al-fiqh* was technical and sought to satisfy the desire to meet the requirement for being considered a science according to Aristotle's theory. Even the proponents of this view could not deny the crucial importance of the assessments of law together with its sources in this discipline.

On the other hand, some theoreticians defended the possibility of having multiple subject matters and propounded that both sources and assessments of law constituted the subject matters of *uṣūl al-fiqh*. Ṣadr al-Sharī'a argued that all propositions of *uṣūl al-fiqh* could be reduced to one of these two: "Every such and such assessment that such and such a source indicates becomes established" and "Whenever such and such a source indicates that such and such an assessment exists, this assessment becomes established." In the first proposition the assessments were the subject; in the second one the sources were the subject. Therefore, the subject matter of this science included both assessments and sources.[15]

Ṣadr al-Sharī'a and Mollā Khusraw explained that having two concepts as the subject matter was possible when the thing under investigation was the relationship of these two concepts. However, if they were not related to each other in their essential characteristics, then they must have been subject matters of different sciences. In the science of *uṣūl al-fiqh*, "substantiation of assessment by sources"

13 Al-Āmidī, *Al-Iḥkām fī Uṣūl al-Aḥkām*, 1: 21-22 and 109-215; Ibn al-Hājib, *Mukhtaṣar al-Muntahā*, 3 and 29-45, and Shams al-Dīn al-Fanārī, *Fuṣūl al-Badā'i'*, 1:15-16 and 159-324.

14 Mollā Kirmastī, *Al-Wajīz*, 1b; idem., *Al-Madārik al-Aṣliyya*, 2a. For similar statements, see Shams al-Dīn al-Fanārī, *Fuṣūl al-Badā'i'*, 1:11, and Aḥmad Tashkoprīzāda, *Miftāḥ al-Sa'āda*, 2:163.

15 Ṣadr al-Sharī'a 'Ubayd Allāh al-Maḥbūbī, *Al-Tawḍīḥ li-Matn al-Tanqīḥ fī Uṣūl al-Fiqh* (Beirut: Dār al-Kutub al-'Ilmiyye, 1996), 1:41-45. For the views of his Ottoman followers in this issue, see Mollā Khusraw, *Mir'āt al-Uṣūl*, 12-4; idem., *Ḥāshiya al-Talwīḥ*, 3 vols. (Cairo: al-Maṭba'a al-Khayriyya, 1322 [1904/05]),1:137-41. Ḥasan al-Fanārī, *Ḥāshiya al-Talwīḥ*, 3 vols. (Cairo: al-Maṭba'a al-Khayriyya, 1322 [1904/05]),1:142-50, and Ibn Kamāl, *Taghyīr al-Tanqīḥ* (Istanbul: Cemal Efendi Matbaası, 1309 [1891/92]), 9.

(*ithbāt al-adilla li-l-ḥukm*) was investigated; thus, forming propositions for these two related concepts did not harm this discipline's harmony and unity.[16]

2. Postulates of *Uṣūl al-Fiqh*

According to Aristotle's theory, in a scientific endeavor, all pieces of knowledge about a subject matter have to be established by syllogistic proofs based on true and certain premises—in other words, through demonstration. Clearly, the essential aspect of scientific knowledge is the certainty of the syllogistic argument's premises. Thus, it is critical that the premises, from which the most rudimentary piece of information about the subject matter of a science is derived, be true and externally corroborated. A science's starting premises, its postulates (*mabādi'*), are assumed to be true, vindicated, and in no need of being proven.

Since the entire edifice of knowledge is constructed on postulates, their epistemological value determines the end product's status. Each science has postulates, some of which are self-evident and general to all sciences (e.g., the laws of contradiction and the excluded middle), and others that are specific to just one or several sciences. For example, physics takes movement's existence for granted, whereas geometry, arithmetic, and engineering presupposes "things which are equal to the same thing are equal to one another."[17]

Theoreticians were aware of the critical importance of postulates and their role in classifying Islamic jurisprudence as a science. The inquiry about the sources of law (the Qur'an, the prophetic tradition, consensus, and analogy) could not be presented as scientific unless the factual nature of their status was justified by an external authority. The author of the first substantial Ottoman *uṣūl al-fiqh* work, 'Alā' al-Dīn al-Aswad, mentioned the necessity to prove the existence of God, Who was omnipotent, all-knowing and able to do whatever He willed, and Who sent prophets and guided them through revelation. As a consequence, the Qur'an's value as revelation could become established and, in turn, could justify the other sources (viz., the prophetic tradition, consensus, and analogy). Theoreticians did not have to deal with these issues, because they were established in the discipline of theology (*kalām*). Thus they could take the theologians' conclusions with proper scientific procedure as postulates and construct their arguments upon them.[18]

16 Ṣadr al-Sharī'a, *Al-Tawḍīḥ*, 1:43, and Mollā Khusraw, *Mir'āt al-Uṣūl*, 12-13.

17 Ross, *Aristotle*, 46-47; Randall, *Aristotle*, 40-45, and Avicenna, *al-Shifa' al-Mantiq*, 3:155-56.

18 'Alā' al-Dīn al-Aswad, *Kunūz al-Anwār*, 4b-5a. See also Shams al-Dīn al-Fanārī, *Fuṣūl al-Badā'i'*, 1:15.

Once the validity of these four sources of law became established, the issue of how to understand and interpret them arose. The first three sources were preserved in Arabic as written texts, and thus an inquiry about them required the knowledge of the interpretive possibilities of these texts. For example, it was necessary to know whether the text contained a symbolic meaning; how general it was, so that specific, qualified, unqualified, and ambiguous expressions could be distinguished from each other; and how the implications of a particular text were identified. Did the jurists have to derive all of the principles about the interpretation of the texts of sources of law scientifically in order to maintain the scientific nature of legal knowledge? Theoreticians did not require this because the science of the Arabic language (*al-lugha al-'arabiyya*) articulated these principles as the results of scientific inquiry. Thus *uṣūl al-fiqh* could take these principles as its postulates.[19]

3. Definitions of *Uṣūl al-Fiqh* and *Fiqh*

Most *uṣūl al-fiqh* books from the period under study included definitions of *uṣūl al-fiqh* and *fiqh* that presented Islamic jurisprudence as a science *par excellence* that met the standards of Aristotle's theory. Theoreticians revealed that the inquiry about the sources and assessments of law could erect a system of knowledge through demonstrative arguments without bringing any external elements other than those identified as postulates. Every piece of knowledge needed be substantiated by a syllogism, the premises of which ultimately depended on self-evident axioms or the discipline's postulates. Thus, no part of the legal knowledge could be arbitrary and without a vindicating demonstrative proof.

As a corollary of this concern with the scientific nature of legal knowledge, theoreticians did not consider *fiqh* to be an independent discipline. By the beginning of the period under study, the four Sunni schools of law (viz., the Ḥanafī, Shāfi'ī, Mālikī, and Ḥanbalī) had long enjoyed a high degree of prestige and authority. The majority of Muslims followed one of these schools, and the dominant form of legal scholarship was the collection and study of the opinions formulated by the schools' authorities. Legal opinions on religious and legal matters were justified by referring to the schools' established views or to the opinions of a prestigious scholar. This practice of following one school or a certain scholar was

19 See, for example, al-Āmidī, *Al-Iḥkām fī Uṣūl al-Aḥkām*, 1:29-107, and Bernard G. Weiss, *The Search for God's Law: Islamic Jurisprudence in the Writings of Sayf al-Dīn al-Āmidī* (Salt Lake City: University of Utah Press, 1992), 117-50. See also 'Alā' al-Dīn al-Aswad, *Kunūz al-Anwār*, 5a, and Shams al-Dīn al-Fanārī, 1:15.

called *taqlīd* (imitation), and the person who undertakes this practice was called a *muqallid* (imitator).[20]

For theoreticians, this type of legal knowledge—the knowledge of the *muqallid*—was not "scientific" because it was accepted on the authority of another scholar as opposed to being substantiated with demonstration. For them, only legal knowledge that resulted from *ijtihād* (the independent study of the sources of law) and was substantiated by a proof in the form of scientific syllogism could be considered scientific. In accordance with this, they defined *fiqh* not as a science with a body of issues that accumulated through the contributions of its various practitioners, but as the ability to derive assessments from the sources of law. As will be discussed below, in their view, this ability and the results of its application complemented the discipline of *uṣūl al-fiqh* to generate scientific legal knowledge.

I will examine two definitions for *uṣūl al-fiqh* and three definitions for *fiqh*, all of which appeared in the works of the Ottoman scholars under study. These definitions and/or the comments on them revealed the concern with the scientific nature of Islamic legal knowledge.

a. *Uṣūl al-Fiqh*

The theoreticians under study conceived of *uṣūl al-fiqh* as the collection of universal propositions or pieces of information that could be turned into universal propositions. They unambiguously declared that the inquiry about the sources and assessments of law resulted in general principles and statements that could constitute major premises in the syllogistic arguments that substantiate scientific legal knowledge.

The first definition to be discussed seems to have been introduced by thirteenth-century theoretician Ibn al-Ḥājib, who defined *uṣūl al-fiqh* as "the knowledge of principles which help one to derive assessments of law from their particular sources."[21] This definition was widely accepted from the thirteenth century

20 See Joseph Schacht, *An Introduction to Islamic Law* (Oxford: Clarendon Press, 1964), 69-72; N. J. Coulson, *A History of Islamic Law* (Edinburgh: University Press, 1964), 80; Wael B. Hallaq, "Was the Gate of Ijtihad Closed?" *International Journal of Middle East Studies* 16, no.1 (1984), 10-11; Sherman A. Jackson, *Islamic Law and the State: The Constitutional Jurisprudence of Shihāb al-Dīn al-Qarāfī* (Leiden: E.J. Brill, 1996), xxviii and 73-77, and Mohammad Fadel, "The Social Logic of Taqlīd and the Rise of the Mukhtaṣar," *Islamic Law and Society* 3, no. 2 (1996): 193-233.

21 "*Al-ʿilm bi-l-qawāʾid allatī yutawaṣṣal bi-hā ilā istinbāṭ al-aḥkām al-sharʿiyya al-farʿiyya ʿan adillati-hā al-tafṣiliyya*." Ibn al-Ḥājib, *Mukhtaṣar al-Muntahā*, 2.

onwards. Ottoman scholars Alā' al-Dīn al-Aswad, Shams al-Dīn al-Fanārī, Mollā Khusraw, Ḥasan al-Fanārī, Mollā Kirmastī, and Ibn Kamāl included and commented on this definition in their books. It seems that Ṣadr al-Sharī'a's adoption of this definition (with certain additions) and his interpretation of it were critical for its later reception by Ottoman scholars. According to him, the principles (*al-qawā'id*) were universal propositions (*al-qaḍāyā al-kulliyya*) that could become major premises in a syllogism.[22] In his opinion, minor premises were the results of *fiqh*, which, as will be discussed, was conceived as the ability to derive legal knowledge from the sources of law. They together constituted a proof that could be constructed, as follows:

(a) All assessments indicated by analogy become established [a conclusion of *uṣūl al-fiqh*]

(b) This assessment is indicated by analogy [a conclusion derived as a result of applying *fiqh*]

(c) Therefore, this assessment becomes established [the substantiated legal knowledge].[23]

In his view, these major premises could also be in the form of universal concomitance (*mulāzama*). Then, the construction of proof was as follows:

(a) Whenever analogy indicates this assessment, it becomes established [a conclusion of *uṣūl al-fiqh*]

(b) Analogy indicates this assessment [a conclusion derived as a result of applying *fiqh*]

(c) Therefore, it becomes established [substantiated legal knowledge].

Ṣadr al-Sharī'a was aware that *uṣūl al-fiqh* works did not contain these major premises *per se*. However, he thought that they were embedded in, and could be extracted from, the treatment of issues.[24] On the other hand, he considered Ibn al-Ḥājib's definition deficient, because it comprised, in addition to *uṣūl al-fiqh*, knowledge of the disciplines of Arabic language, theology, and dialectics (*'ilm al-khilāf*). In order to exclude language and theology, he suggested adding the phrase

22 Ṣadr al-Sharī'a, *Al-Tawḍīḥ*, 1:34-35.

23 Ibid., 35.

24 Ibid., 35-37.

"in a short way" (*tawaṣṣulan qarīban*). After all, knowledge of these disciplines might enable a person to discover assessments, but the process of reasoning would include more stages. Ṣadr al-Sharī'a considered it necessary to include the phrase "for the purpose of intellectual inquiry" (*'alā wajh al-taḥqīq*) to exclude dialectics. In his view, this discipline included the principles leading to the same result but was designed to convince the opponent, not to engage in intellectual inquiry.[25]

According to Ibn Kamāl, some elements of Ibn al-Ḥājib's definition and Ṣadr al-Sharī'a's additions were redundant. In his opinion, the phrase "principles that help one derive assessments of law" (*al-qawā'id allatī yutawaṣṣal bi-hā ilayh*) excludes dialectics because this discipline was concerned with the principles used to defend or refute articulated assessments, as opposed to those used to discover assessments. Therefore, he maintained that "for the purpose of intellectual inquiry" should be abandoned. Ibn Kamāl also wrote that there was no need for "in a short way," because unless there was an obvious mention to the contrary, this meaning transpired in the mind and thus excluded Arabic language and theology from the definition.[26]

Mollā Khusraw put forward a different definition for *uṣūl al-fiqh*. Contrary to the claims of those who accepted Ibn al-Ḥājib's definition, he asserted that this discipline's principles were not presented in the form of universal propositions. While he agreed with Ibn al-Ḥājib that legal knowledge was substantiated through syllogisms and that *uṣūl al-fiqh* contributed to constructing major premises, he disagreed with Ibn al-Ḥājib in lumping together the issues of *uṣūl al-fiqh* as universal propositions. As a result, he defined *uṣūl al-fiqh* as "a knowledge by means of which one knows aspects of sources and assessments of law—aspects that have an import in substantiating the latter with the former."[27]

He analyzed and explained elements of his own definition. According to him, *knowledge* (*'ilm*) meant the ability that enabled one to persistently infer the particular from the universal. This term was the genus in this definition and excluded God, the Prophet and Gabriel's (the angel of revelation) knowledge, because such knowledge was not the result of inference.[28] The sources of law (*al-adilla*

25 Ibid., 35.

26 Ibn Kamāl, *Taghyīr al-Tanqīḥ*, 7-8. Shams al-Dīn al-Fanārī included the phrase "in a short way" but left out "with the purpose of intellectual inquiry." Shams al-Dīn al-Fanārī, *Fuṣūl al-Badā'i'*, 1:10.

27 "'*Ilm yu'raf bi-h aḥwāl al-adilla wa-l-aḥkām al-shar'iyyatayn min ḥayth anna la-hā dakhl fī ithbāt al-thāniya bi-l-'ūlā*." Mollā Khusraw, *Mirqāt al-Wuṣūl* (Istanbul: Şirket-i Sahafiye-i Osmaniye, 1320 [1902/03]), 2.

28 Mollā Khusraw, *Mir'āt al-Uṣūl*, 7.

al-shar'iyya) were the Qur'an, the Prophetic tradition, consensus, and analogy; the assessments of law (*al-aḥkām al-shar'iyya*) were the results of God's revelation with regard to human actions. The aspects (*aḥwāl*), investigated in *uṣūl al-fiqh* were the inseparable accidents of assessments and sources that enabled the former to be extracted from the latter. They could become predicates, parts, attributes, and conditions for sources and assessments. The conclusions of *uṣūl al-fiqh,* while not necessarily in the form of universal propositions, could be designed to form them.[29]

In fact, there was not a significant difference between Ibn al-Ḥājib and Mollā Khusraw's conceptions. While the former conceived of this discipline as a collection of major premises, the latter emphasized its elaborate analyses of sources and assessments and accepted the possibility and necessity of deriving major premises from them.

b. *Fiqh*

It is obvious that major premises, which include principles about the sources of law, alone cannot help derive new conclusions. In a valid syllogistic argument, major premises need to be put together with relevant minor premises. Thus, by accepting the idea that *uṣūl al-fiqh* included only major premises in syllogisms, theoreticians admitted that its conclusions did not articulate scientific legal knowledge. They contended that *fiqh* provided minor premises and thus complemented the conclusions of *uṣūl al-fiqh* in a syllogistic argument. However, as mentioned, theoreticians regarded *fiqh* not as an independent discipline, but as an ability acquired by excelling in *uṣūl al-fiqh*.

The first definition of *fiqh* to be analyzed here is that attributed, rather dubiously, to Abū Ḥanīfa (d. 767). I include it in this essay because many Ḥanafī scholars under study changed and explained it in a way that accorded with the understanding of Islamic jurisprudence as a science. This definition is "*fiqh* is the human soul's cognizance of things to its advantage and those to its disadvantage."[30]

In Ṣadr al-Sharī'a's view, "cognizance" (*ma'rifa*) was the "inference of particulars from a source" (*idrāk al-juz'iyyāt min dalīl*) and thus excluded imitation (*taqlīd*).

29 Ibid., 8-9.

30 "*Ma'rifa al-nafs mā la-hā wa-mā 'alay-hā*." For this definition and its interpretation, see Ṣadr al-Shari'a, *Al-Tawḍīḥ*, 1:16-17; Al-Taftāzānī, *Al-Talwīḥ*, 1:20-21; Shams al-Dīn al-Fanārī, *Fuṣūl al-Badā'i'*, 1:5, Mollā Khusraw, *Mirqāt al-Wuṣūl*, 2; idem., *Mir'at al-Uṣūl*, 10; Ḥasan al-Fanārī, *Ḥashiya al-Talwīḥ*, 1: 69-75, and Ibn Kamāl, *Taghyīr al-Tanqīḥ*, 3-4.

The phrases "things to its advantage" (*mā la-hā*) and "those to its disadvantage" (*mā ʿalay-hā*) meant "what benefits and harms human souls in the afterworld," which signified different types of religio-legal-moral assessments. The definition, with Ṣadr al-Sharīʿa's interpretation, comprised the knowledge related to belief, conscience, and practice and thus included theology, ethics, mysticism, and legal knowledge. In order to have it comprise only legal knowledge and accord with his understanding of *fiqh*, Ṣadr al-Sharīʿa suggested adding the expression "related to the practice" (*ʿamalan*).[31] But according to Saʿd al-Dīn al-Taftāzānī, this definition, attributed to Abū Ḥanīfa, was not a proper definition of *fiqh*, for it could be interpreted in many different ways. For example, the explication of *maʿrifa* as "inference of particulars from a source" was linguistically and terminologically unwarranted.[32]

Mollā Khusraw, who did not agree with Al-Taftāzānī, responded that *maʿrifa* is "the ability acquired as a result of studying the principles." Thus, the knowledge of a *muqallid* and of a person who somehow understood assessments from the sources but did not have the ability of legal reasoning was excluded. The expression "human soul" excluded God and Gabriel's knowledge from the definition, and thus Al-Taftāzānī's claim of indeterminacy in Abū Ḥanīfa's definition was unjustified. As regards Al-Taftāzānī's specific challenge about the interpretation of *maʿrifa*, he wrote that it was unlikely for a person to know everything, which was to one's advantage as well as disadvantage, without having a source and the ability to reason. Ṣadr al-Sharīʿa and Mollā Khusraw stated that propositions acquired as a result of *fiqh* could be combined with the major premises of *uṣūl al-fiqh* in order to form a proof, thereby substantiating legal knowledge.[33]

It would be unjustifiable to claim that Abū Ḥanīfa had in mind the meanings that later commentators extracted from this definition. He did not have the concerns, such as substantiating legal knowledge through demonstrative arguments, with which later authors had to contend. However, presumably in order for the Ḥanafī scholars to claim that their school's founder had put forward the earliest definition of *fiqh*, they interpreted this definition liberally and updated it so that it would conform to the understanding of their time.

Another definition of *fiqh* became famous as the Shāfiʿī definition. Although there is no evidence that al-Shāfiʿī (d. 820) introduced it, this definition was

31 Ṣadr al-Sharīʿa, *Al-Tawḍīḥ*, 1:16-17.

32 Al-Taftāzānī, *Al-Talwīḥ*, 1: 20-21.

33 Mollā Khusraw, *Mirʾāt al-Uṣūl*, 10. For similar views, see idem., *Ḥāshiya al-Talwīḥ*, 1:69-76, and Ibn Kamāl, *Taghyīr al-Tanqīḥ*, 3.

commonly adopted by the Shāfiʿī scholars of the period under study: "Knowledge of the assessments of law from their particular sources."[34] In this definition, *fiqh* was considered to be the ability to extract legal knowledge from the sources. All of the authors who included it in their books emphasized that the knowledge of a *muqallid* could not be considered either a part or result of *fiqh*.

Ibn al-Ḥājib suggested adding "with reasoning" (*bi-l-istidlāl*) to this definition.[35] According to Ṣadr al-Sharīʿa and Ibn Kamāl, adding this phrase to exclude the knowledge of *muqallid*s was redundant, because the phrase "from their sources" (*ʿan adillat-hā*) already excluded that.[36] On the other hand, Al-Taftāzānī held that Ṣadr al-Sharīʿa did not understand Ibn al-Ḥājib's intention, which was to exclude God and Gabriel's knowledge from the definition.[37]

The Shāfiʿī definition was the most successful one in conveying the idea that *uṣūl al-fiqh* and *fiqh* complemented each other. However, it was the subject of some technical criticism. For example, its co-extensiveness and co-exclusiveness with *fiqh* was questioned. It was grammatically possible to signify "all" and "some" by a plural and definite noun. The word "assessment" (*ḥukm*) was plural and definite in the Shāfiʿī definition. If all assessments were meant, then it was not co-extensive with the definiendum (*fiqh*), for great independent jurists (*mujtahid*s) like Mālik ibn Anas (d. 795), who indisputably had *fiqh*, confessed their lack of knowledge on some questions. If some assessments were meant, then it did not co-exclude with the definiendum, because the *muqallid* could know some assessments.[38] Ibn al-Ḥājib responded that if all assessments were meant, then the meaning was "preparedness (*tahayyu'*) to know all"; if only some assessments were meant, then the *muqallid* was not included because he did not acquire his knowledge from the sources.[39]

34 "*Al-ʿilm bi-l-aḥkām al-sharʿiyya al-ʿamaliyya ʿan adillati-hā al-tafṣīliyya*." For the different versions and interpretations of this definition, see Ibn al-Hājib, *Mukhtaṣar al-Muntahā*, 3; Ṣadr al-Sharīʿa, *al-Tawḍīḥ*, 1:18-19 and 22-31; Al-Taftāzānī, *al-Talwīḥ*, 1:21-30; ʿAlāʾ al-Dīn al-Aswad, *Kunūz al-ʾAnwār*, 4a; Shams al-Dīn al-Fanārī, *Fuṣūl al-Badāʾiʿ*, 1:5-9, Mollā Khusraw, *Mirʾāt al-Uṣūl*, 10-11; Ḥasan al-Fanārī, *Ḥāshiya al-Talwīḥ*, 1:76-97; Mollā Kirmastī, *al-Wajīz*, 1b; idem., *al-Madārik al-ʾAṣliyya ilā Maqāṣid al-Farʿiyya*, 2a; Ibn Kamāl, *Taghyīr al-Tanqīḥ*, 4-5, and Tashkoprīzāda, *Miftāḥ al-Saʿāda*, 2:173.

35 Ibn al-Hājib, *Mukhtaṣar al-Muntahā*, 3.

36 Ṣadr al-Sharīʿa, *Al-Tawḍīḥ*, 1:19. See also Ibn Kamāl, *Taghyīr al-Tanqīḥ*, 4.

37 Al-Taftāzānī, *Al-Talwīḥ*, 1:23.

38 Ṣadr al-Sharīʿa, *al-Tawḍīḥ*, 1:29-31.

39 Ibn al-Hājib, *Mukhtaṣar al-Muntahā*, 3. See also ʿAlāʾ al-Dīn al-Aswad, *Kunūz al-Anwār*, 4a-4b.

This explanation did not satisfy Ṣadr al-Sharīʿa, who insisted on a lack of precision in the Shāfiʿī definition. According to him, "all assessments" could not be meant because the events were infinite and nobody could cover all of them. Thus, since the limits of "all assessments" were not known, one could only speak of an unknown number when speaking of "some" or "half" or "most." In addition, the interpretation of "preparedness to know all" did not make sense because one could assume the existence of "preparedness" for non-jurists. Therefore, it was not clear what could be counted as "preparedness." Moreover, it was not proper to use "knowledge" (*ʿilm*) to mean "preparedness" in definitions.[40]

Ṣadr al-Sharīʿa put forward a new definition for *fiqh*: "The knowledge, from the sources, of all legal assessments about which the arrival of revelation became known, and of all those on which the consensus took place, while having the capacity of sound reasoning on them."[41] He asserted that this was an exact definition, one that was applicable to its understanding in different periods. He also explained that a person with the ability of *fiqh* had to know all of the revelations that had been announced by that time. The Companions of the Prophet [during his lifetime] did not know all of the revelations, but only those of which the Prophet informed them. Some of them were recognized as having *fiqh*, because they could apply their reason to the sources. The Arab Companions and others—who understood the assessments from the sources because they knew the language—could not claim to have *fiqh* unless they could reason. The knowledge of issues that had been solved via analogy was not part of *fiqh* and therefore including it in the definition would cause an infinite regress, because the exercise of analogy was the result of excelling in *fiqh*.[42]

In his criticism of this definition, Al-Taftāzānī brought out the difference between these two understandings, namely, the ability to produce legal assessments from the scriptures and the discipline containing the results of this ability. He claimed that Ṣadr al-Sharīʿa talked about an abstract concept, the extent of which expands and wanes over time. As the new revelations and new consensuses appeared, the extent of this discipline increased; as some revelations were abrogated, its scope decreased. In addition, he questioned the concurrence

40 Ṣadr al-Sharīʿa, *Al-Tawḍīḥ*, 1:29-31. For the objections against the Shāfiʿī definition, see also Shams al-Dīn al-Fanārī, *Fuṣūl al-Badāʾiʿ*, 1:7-8, and Ibn Kamāl, *Taghyīr al-Tanqīḥ*, 5-6.

41 "*Al-ʿilm bi-kull al-aḥkām al-sharʿiyya al-ʿamaliyya allatī qad ẓahara nuzūl al-waḥy bihā wa-allatī inʿaqada al-ijmāʿ ʿalay-hā min adillati-hā maʿa malaka al-istinbāt al-ṣaḥīḥ min-hā.*" For this, see Ṣadr al-Sharīʿa, *Al-Tawḍīḥ*, 1:31.

42 Ibid., 1:31-32.

between this definition and the definiendum (*fiqh*). The Companions' legal knowledge was not included in this definition, because while the Prophet was alive consensus did not exist as a source of law. Moreover, Al-Taftāzānī criticized the exclusion of assessments reached through analogy, because they constituted most of the *fiqh*-related issues. Finally, he raised a question about those Companions who did not know all of the announced revelations but continued to claim mastery in *fiqh*.[43]

Al-Taftāzānī dismissed Ṣadr al-Sharīʿa's definition as untenable both as regards its being an ability and a separate discipline. In response, several Ottoman scholars answered his criticism. Mollā Khusraw insisted that Ṣadr al-Sharīʿa's intention was to define *fiqh* as the ability to extract assessments from the sources.[44] The exercise of analogy was the result of the ability to reason and should not be included in the definition, for an infinite regress had to be avoided.[45] The increase and decrease in the content of *fiqh* was acceptable. Since no consensus (in the technical sense) took place while the Prophet was alive, the Companions did not have to know about this source to have the ability of *fiqh*.[46] Shams al-Dīn al-Fanārī, Mollā Khusraw, and Ḥasan al-Fanārī rebutted Al-Taftāzānī's criticism related to the legal mastery of those Companions who did not know all of the announced revelations by pointing out that Ṣadr al-Sharīʿa's intention for using the expression "about which the arrival of revelation became known" (*allatī ẓahara nuzūl al-waḥy bi-hā*) was its becoming known to the jurist himself.[47] Thus if an individual jurist did not know the revelation related to a certain assessment, this did not prevent him from claiming to have the ability of *fiqh*.

Ṣadr al-Sharīʿa does not seem to have provided a completely different conception of *fiqh*, for his objections and innovations mostly concerned terminology and expression. He and other theoreticians under discussion considered *fiqh* to be the ability that helped one draw conclusions about the legal sources. These conclusions could then be used as the minor premises of a syllogistic argument in which the conclusions of *uṣūl al-fiqh* constituted the major premises.

43 Al-Taftāzānī, *Al-Talwīḥ*, 1:31-32.

44 Mollā Khusraw, *Ḥāshiya al-Talwīḥ*, 1:104.

45 Ibid., 1:104. See also Shams al-Dīn al-Fanārī, *Fuṣūl al-Badāʾiʿ*, 1:10; Ḥasan al-Fanārī, *Ḥāshiya al-Talwīḥ*, 1:106, and Ibn Kamāl, *Taghyīr al-Tanqīḥ*, 6.

46 Shams al-Dīn al-Fanārī, *Fuṣūl al-Badāʾiʿ*, 1:9; Mollā Khusraw, *Ḥāshiya al-Talwīḥ*, 1:104, and Ibn Kamāl, *Taghyīr al-Tanqīḥ*, 6.

47 Shams al-Dīn al-Fanārī, *Fuṣūl al-Badāʾiʿ*, 1:10; Mollā Khusraw, *Ḥāshiya al-Talwīḥ*, 1:104-5, and Ḥasan al-Fanārī, *Ḥāshiya al-Talwīḥ*, 1:106.

4. The Suitability of Calling Islamic Jurisprudence a Science

Thus far, I have discussed how Ottoman scholars and their predecessors, who believed in the utility of and used Aristotelian logic, tried to show that Islamic legal knowledge fulfilled the requirements of Aristotle's theory of sciences. As mentioned, the most significant quality of scientific knowledge is certainty—the extraction of epistemologically certain conclusions from true and undisputable premises. However, according to the theoreticians' own statements, most legal knowledge expressed probability. It was almost universally accepted that legal knowledge derived through analogy did not express certainty.[48] Having different perspectives and constructing divergent analogies on the basis of varying features were legitimate. These analogies could result in conflicting opinions on the same issue. It was impossible to consider all interpretations to be certain and indisputable at the same time. The other three sources of law (viz., the Qur'ān, the prophetic tradition, and consensus) were recognized as having the potential to produce certainty; however, this did not always materialize since, for example, the authenticity of some prophetic reports was disputed. If there was any doubt about the authenticity of the sources, the claim of epistemological certainty for derived knowledge/opinion from it was unwarranted.

Therefore, theoreticians asked whether it was legitimate to call probable knowledge (*ẓannī*) science (*'ilm*). They tried to justify this in two ways. Ṣadr al-Sharī'a, al-Taftāzānī, and Aḥmad Tashkoprīzāda claimed that doing so was possible on the grounds that medical knowledge, which was not certain, was called a science.[49] In addition, Shams al-Dīn al-Fanārī and Al-Taftāzānī turned their attention to the final stage of the process of extracting legal knowledge from the sources of law. Considering the jurists' opinions as particles of legal knowledge, they emphasized these opinions' finality for the jurist himself and his followers and considered this as fulfilling the requirement of certainty. Whenever a jurist arrived at a probable assessment of a question, it became

48 Those schools rejecting probability and requiring certainty in legal knowledge had to leave out analogy as a proper legal method. For this, see Aron Zysow, "The Economy of Certainty: An Introduction to the Typology of Islamic Legal Theory" (PhD diss., Harvard University, 1984).

49 Ṣadr al-Sharī'a, *Al-Tawḍīḥ*, 1: 32; Al-Taftāzānī, *Al-Talwīḥ*, 1: 33. According to Aḥmad Tashkoprīzāda, "in the practical sciences, the purpose is to acquire probability not certainty. For although the authenticity of two strongest legal sources, the Qur'an and the prophetic tradition, is certain, their indication [of the intended meaning] is mostly probable." For this, see his *Miftāḥ al-Sa'āda*, 2:173.

"settled" (*maqṭū'* or *majzūm*) and binding.[50] The reconciliation of probability in legal knowledge and the requirement of certainty in sciences can be expressed as follows:

(a) It is obligatory for a jurist to act according to a probable assessment he derived…

(b) It is known that every assessment, with which action is obligatory, is God's command.

(c) [Knowing] God's command is knowledge.

(d) Therefore, [knowing] the probable assessment is knowledge.[51]

Accordingly, the end product was considered certain, even though it was built upon probable premises. Here, the point of attention changed; the epistemological value of assessment was disregarded, and its binding status in practice was emphasized and made the basis for claims of certainty.[52] 'Alā' al-Dīn al-Aswad dealt with this issue from a different perspective and distinguished *uṣūl al-fiqh* from *fiqh*. He accepted the probable status of the assessments based on analogy and on prophetic traditions whose authenticity was in doubt. However, the universal propositions in *uṣūl al-fiqh* were about the essences of analogy and traditions as opposed to what they expressed. In other words, the proposition of *uṣūl al-fiqh* as "analogy resulted in probability" expressed certainty and fulfilled the certainty requirement of science; the probability of assessments based on analogy did not affect the scientific status of *uṣūl al-fiqh*.[53]

In fact, this discussion about the validity of calling Islamic jurisprudence a science illustrates the theoreticians' resolve to respond to all possible criticisms and to vindicate the scientific status of legal knowledge.

50 Shams al-Dīn al-Fanārī, *Fuṣūl al-Badā'i'*, 1:8.

51 Al-Taftāzānī, *Al-Talwīḥ*, 1: 32-33. Ḥasan al-Fanārī agreed with Al-Taftāzānī on this issue, even though he brought minor criticisms on Al-Taftāzānī's expression. See his *Ḥāshiya al-Talwīḥ*, 1:107-108;

52 Ibn Kamāl opposed this solution and accepted the possibility of attaining certainty only in the assessments based on unambiguous statements of authentic revelation. See his *Taghyīr al-Tanqīḥ*, 6,

53 'Alā' al-Dīn al-Aswad, *Kunūz al-Anwār*, 4a.

C. Conclusion

The foregoing analysis of the conception of Islamic jurisprudence showed that Ottoman *uṣūl al-fiqh* authors adopted the approach of their predecessors who took the Greco-Islamic philosophical tradition seriously and used Aristotelian logic in their works. Suggesting that Islamic legal knowledge could be substantiated scientifically, that is, through a syllogism based on externally validated premises, they declared Islamic jurisprudence a science that lived up to Aristotelian standards.

It seems that Ottoman scholars did not make a transformative contribution to the conception of Islamic jurisprudence as a science. However, it cannot be said that they repeated this idea as a convention of the discipline and just recorded their predecessors' views. They intensely debated the principles of Aristotle's theory of sciences and their applicability to the subject matter of their discipline. In fact, their contribution can be summed up as a continuation, expansion, explanation, and refinement of the existing discourse on the subject.

It should be underlined that this conception of Islamic jurisprudence as a science was not dominant everywhere during this particular period. For example, such prestigious scholars as Ibn al-Ṣalāḥ al-Shahrazūrī (d. 1245), Abū Shāma (d. 1267), Ibn Taymiyya (d. 1328) and Jalāl al-Dīn al-Suyūṭī (d. 1505) resisted the use of "foreign" elements (e.g., Aristotelian logic) in religious disciplines.[54] Thus, Ottoman scholars preferred this approach over other alternatives. This preference may include clues about what features, in their view, an acceptable inquiry into a subject matter should have to claim that its results are scientific. Research about other scholarly disciplines can shed further light on the significance of Aristotle's theory of sciences for the Ottoman understanding of knowledge/science and its classification during the period under study.

54 For the reaction of these scholars to the use of logic in religious disciplines, see Goldziher, "The Attitude of Orthodox Islam," 205-206; George Makdisi, "The Juridical Theology of Shāfi'ī: Origins and Significance of Uṣūl al-Fiqh," *Studia Islamic* 59 (1984): 97-98; Hallaq, "Introduction," xii-xxxix, and E. M. Sartain, *Jalāl al-Dīn al-Suyūṭī: Biography and Background*, 2 vols. (Cambridge: Cambridge University Press, 1975), 1:32-3.

Greco-Islamic Philosophy and Islamic Jurisprudence in the Ottoman Empire (1300-1600): Aristotle's Theory of Sciences in Works on Uṣūl al-Fiqh

Abstract ■ This essay is a preliminary attempt to reveal features of religious scholarship in the Ottoman central lands during 1300-1600. I analyze the Ottoman *uṣūl al-fiqh* (theoretical jurisprudence) writers' discourse on their discipline's nature and content. I show that the Ottoman scholars heartily adopted and developed the approach and views of the theoreticians, who used Aristotelian logic in their works. Hence, they conceived Islamic jurisprudence as a science and aspired to prove that it fulfilled all the requirements of Aristotle's theory of sciences.

Keywords: Islamic jurisprudence; *uṣūl al-fiqh*; Greco-Islamic Philosophy; Aristotelian logic; theory of sciences; legal scholarship in the Ottoman Empire.

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