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ILAHİYAT STUDIES

Volume 13, Number 1, Winter/Spring 2022

CONTENTS

Muhammet Tarakçı & Ulvi Murat Kılavuz	From the Editors	3
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ARTICLES

İmam Rabbani Çelik	The Legacy of a Literary Man in Islamic Legal Theory: Surūrī Chalabī's Criticisms in his Super- Commentary on <i>al-Talwīḥ</i> and His Arguments	9
Muhyar Fanani & Tri Wahyu Hidayati	The Significance of Muḥammad Shaḥrur's Scientific-Historical Method in Contemporary Islamic Legal Theory (<i>Uṣūl al-fiqh</i>)	47
Zeki Yaka	The Effects of Measures Taken in the Scope of the Islamic Price Policy on Investment, Production, Employment, and Stability	83
Iman Al Rujaibi	Aesthetic Characteristics in the Qur'ān	119

BOOK REVIEWS

Makmor Tumin	<i>Travelling Home: Essays on Islam in Europe</i> by Abdal Hakim Murad	155
Abdul Mufid	<i>The Study Quran: A New Translation and Commentary</i> edited by Seyyed Hossein Nasr, Caner K. Dagli, Maria Massi Dakake, and Joseph E. Lumbard	160
Hayrul Nisa Ateş	<i>Sufismus und Theologie - Grenze und Grenzüberschreitung in der islamischen Glaubensdeutung</i> by Reza Hajatpour	165

FROM THE EDITORS

Greetings,

Welcome back to the new issue of *Ilabiyat Studies*.

We have some important news for the readers of *Ilabiyat Studies* in this issue. First, *Ilabiyat Studies* has decided to continue the assessment process on Dergipark, an open-access platform to carry out the peer review process faster and more transparently. Secondly, the editor of our journal, Assoc. Prof. Turgay Gündüz has assumed the role of the associate dean of the Faculty of Theology at Bursa Uludağ University. Because of his administrative assignment, the editorial board has had to be changed. As the journal's new editorial team, we would like to express our gratitude to Gündüz, who led the way in publishing an international journal in the field of Theology twelve years ago and has kept the journal afloat. We hope that this forced separation will not last too long. We are also grateful to Professor Kemal Ataman for his long-standing role as co-editor of *Ilabiyat Studies* and his precious contributions. Thirdly, *Isnad Citation Style* will be used in the footnotes and bibliography in our journal from 2023. Fourthly, as we would like to include articles mainly on Transhumanism in the first issue of 2023, we welcome manuscripts from authors interested in it. Finally, we would like to thank and say welcome Assoc. Prof. Fatma Kızıl, Assoc. Prof. Güllü Yıldız, Asst. Prof. Emine Enise Yakar, Asst. Prof. Sümeyra Yakar, and R.A. İlknur Bahadır. They joined us as field editors in this issue, and our journal will become even stronger with their contributions.

This issue of *Ilabiyat Studies* features four articles and three book reviews. The first paper by İmam Rabbani Çelik, "The Legacy of a

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Literary Man in Islamic Legal Theory: Surūrī Chalabī's Super-Commentary on *al-Talwīḥ* and His Arguments,” presents a detailed analysis of the methodology of the super-commentary written by Surūrī Chalabī, one of the sixteenth century Ottoman scholars, on al-Taftāzānī's *al-Talwīḥ*. The article argues that Surūrī Chalabī pursued the inherited tradition with his argument-based writing style. However, Surūrī Chalabī distinguished himself from the *ḥāshiyah* writers of the previous century by directly discussing the statements of a large number of *ḥāshiyah* written over a broad time in the tradition of *ḥāshiyah* that he inherited.

In the second article, “The Significance of Muḥammad Shaḥrūr's Scientific-Historical Method in Contemporary Islamic Legal Theory (*Uṣūl al-Fiqh*),” Muhyar Fanani and Tri Wahyu Hidayati attempt to propose an alternative paradigm helping to establish Islamic laws that are dynamic and realistic. They argue that Syrian scholar Muḥammad Shaḥrūr's scientific-historical method is a promising approach to developing a modern Islamic law in the historical context of modern societies and state structure.

The article entitled “The Effects of Measures Taken in the Scope of the Islamic Price Policy on Investment, Production, Employment, and Stability,” by Zeki Yaka, discusses how Islamic economics can provide solutions to the current free market understanding of present-day capitalism. Practice in the Medina market, forbidding some transactions such as monopoly and interest, is presented as an economic model to protect fair competition in the economy and contribute to social development by spreading income amongst social segments. Finally, the *ḥisbah* organization is handled for the effectiveness and continuity of the economic model.

The last article of this issue by Iman al Rujaiibi, “Aesthetic Characteristics in the Qurʾān,” aims to determine the religious function of the notion of aesthetics in Qurʾānic discourse. In the article, some Qurʾānic concepts such as *itqān*, *iḥsān* and *bahjah* are explained with reference to contemporary commentaries. The author concludes that the cosmic aesthetics and order mentioned in the Qurʾānic text should be interpreted in the context of the core of the Islamic faith, i.e., *tawḥīd*.

As always, as the editorial team, we thank our readers, authors, and anonymous referees for their invaluable contributions. Finally,

we want to express our gratitude and appreciation to Bursa İlahiyat Foundation for its continued support.

We look forward to being with you in the next issue of *İlahiyat Studies*.

Editors

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ARTICLES

*The Legacy of a Literary Man in Islamic Legal Theory: Surūrī
Chalabī's Criticisms in his Super-Commentary on al-Talwīḥ and His
Arguments*

İmam Rabbani Çelik



*The Significance of Muḥammad Shaḥrur's Scientific-Historical
Method in Contemporary Islamic Legal Theory (Uṣūl al-fiqh)*

Muhyar Fanani & Tri Wahyu Hidayati



*The Effects of Measures Taken in the Scope of the Islamic Price Policy
on Investment, Production, Employment, and Stability*

Zeki Yaka



Aesthetic Characteristics in the Qur'ān

Iman Al Rujaibi

THE LEGACY OF A LITERARY MAN IN ISLAMIC LEGAL THEORY: SURŪRĪ CHALABĪ'S CRITICISMS IN HIS SUPER-COMMENTARY ON *AL-TALWĪḤ* AND HIS ARGUMENTS

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Abstract

Al-Taftāzānī (d. 792/1390), a well-known theorist/theologian of the post-classical era of Islamic thought, not only elucidated the statements of Şadr al-sharī'ah in his *ḥāshiyah* (super-commentary), titled *al-Talwīḥ*, which he wrote on *al-Tawḍīḥ*, but also introduced several criticisms against his arguments. Al-Taftāzānī's work, *al-Talwīḥ*, was received with great interest by Ottoman scholars, who then composed many *ḥāshiyahs* on it in the fifteenth century. Although the number of *ḥāshiyahs* significantly diminished, the practice of *ḥāshiyah* writing on *al-Talwīḥ* continued in the sixteenth century. Surūrī Chalabī (d. 969/1562) was one of the scholars who penned a *ḥāshiyah* on *al-Talwīḥ* during this period. The literary works of Surūrī Chalabī have recently been the subject of numerous academic studies, yet his legacy in Islamic sciences has not received the same interest. This article, aiming to fill this gap in the literature,

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scrutinizes synchronically and diachronically the place of Surūrī's *Hāshiyah* on *al-Talwīḥ* within the tradition of Ottoman *ḥāshiyah* writing on *al-Talwīḥ* and eventually demonstrates that Surūrī primarily dealt with the arguments and comments of Ḥasan Chalabī, a previous *ḥāshiyah* author who commented on *al-Talwīḥ* and criticized them in his argument-based *ḥāshiyah* thus endeavors to position himself within the tradition of *ḥāshiyah* writing of the previous century through Ḥasan Chalabī's work.

Key Words: Ottoman law, *ḥāshiyah*, Islamic legal theory (*uṣūl al-fiqh*), *al-Talwīḥ*, Surūrī Chalabī

Introduction*

"لا مذهب للسائل في محل البحث والمناظرة، فلا ضير في كون ذلك مخالفاً لمذهبه"

"The questioner (*sā'il*)¹ has no stance (*madhhab*) in the realm of inquiry and dialectics. So, there is no problem if his criticism contradicts his own stance."

(Surūrī Chalabī, *Hāshiyat al-Talwīḥ*, 43a)

This article is about the *ḥāshiyah* (super-commentary) by Muṣliḥ al-Dīn Muṣṭafā Surūrī Chalabī (d. 969/1562) on *al-Talwīḥ*. *Al-Talwīḥ* was also a super-commentary authored by Sa'ad al-Dīn al-Taftāzānī (d. 792/1390) on Ṣadr al-sharī'ah's (d. 747/1346) work *Tanqīḥ al-uṣūl* and his own commentary on this text, *al-Tawḍīḥ*. *Tanqīḥ al-uṣūl* and *al-Tawḍīḥ* were highly influential texts for the post-classical era of Ḥanafī-jurist tradition of *uṣūl al-fiqh*. Ṣadr al-sharī'ah, in these works, reconsidered the accumulated knowledge of classical Ḥanafī *uṣūl al-fiqh* he inherited by adopting the concepts, principles, and themes of philosophy and logic, which became the common theoretical language of the post-classical era of Islamic thought. While doing

* I am grateful to my wife Şerife Nur Çelik, my colleagues Abdülmecid Yasir Ekşici, and Alirıza Fannmaz, and the field editor Sümeyra Yakar for their careful reading and revising the manuscript. However, the entire responsibility for the remaining errors belongs to me.

¹ The questioner (*sā'il*) is who objects to the claimant's (*mu'allil*) argument in enquiry and dialectics, see Khaled El-Rouayheb, *Islamic Intellectual History in the Seventeenth Century: Scholarly Current in the Ottoman Empire and Maghreb* (New York: Cambridge University Press, 2015), 72.

this, he relied on theological premises of the Māturīdī tradition against Ash'arī *uṣūl* scholars (*uṣūlīs*), such as Fakhr al-Dīn al-Rāzī (d. 606/1210) and Ibn al-Ḥājjib (d. 646/1249), who were also his intellectual opponents.² Sa'd al-Dīn al-Taftāzānī, in his critical *ḥāshiyah*, *al-Talwīḥ* written on Ṣadr al-sharī'ah's works *al-Tanqīḥ* and *al-Tawḍīḥ*, not only explores the words of Ṣadr al-sharī'ah but also revealed critical contradictions of his several arguments. While al-Taftāzānī often defended the arguments of the Ash'arī *uṣūlīs* against the objections raised by Ṣadr al-sharī'ah, his critique of Ṣadr al-sharī'ah primarily focused on his arguments rather than views. That is, al-Taftāzānī rather criticised the proofs by which Ṣadr al-sharī'ah attempted to substantiate his views.³

Al-Taftāzānī's *al-Talwīḥ* attracted great attention in the Ottoman scholarly circle as it did in the intellectual centers of Transoxiana, Khurasan, and India and was subjected to numerous studies in the form of *ḥāshiyahs* by fifteenth-century Ottoman scholars, especially in the second half of the fifteenth century. The sixteenth century witnessed a decrease in the number of such *ḥāshiyahs*, but studies on *al-Talwīḥ* did not cease. One of these studies, *Ḥāshiyat al-Talwīḥ*, written by Surūrī Chalabī, a well-known scholar, literary man, and the tutor of Prince (Shāhzādah) Muṣṭafā (d. 960/1553).

Recently, some researchers have studied *ḥāshiyahs* penned on *al-Talwīḥ* in earlier periods⁴ and the fifteenth century.⁵ No studies,

² İmam Rabbani Çelik, "XV. yy. Osmanlı Düşüncesinde Telvîh Hâşiyeleri: Teklîfe Dair Tartışmalar" (PhD diss., Istanbul: Marmara University, 2020), 26-31.

³ *Ibid.*, 32-33.

⁴ For some studies including the critical edition and evaluation of the works of al-Jurjānī and Qāḍī Burhān al-Dīn, which can be considered among the first *ḥāshiyahs*, see H. Yunus Apaydın, "Kadı Burhaneddin'in Tercihu't-Tavzih Adlı Eseri," *Erciyes Üniversitesi Sosyal Bilimler Enstitüsü Dergisi* 6 (1995), 33-45; Emine Nurefşan Dinç, "Kadı Burhāneddin'in Tercihu't-Tavzih İsimli Eserinin Tahkiki ve Değerlendirmesi" (PhD diss., Istanbul: Marmara University, 2009); al-Sayyid al-Sharīf al-Jurjānī, *Ḥāshiyat al-Talwīḥ*, ed. Emine Nurefşan Dinç (Istanbul: Marmara Üniversitesi İlahiyat Fakültesi Vakfı Yayınları, 2016).

⁵ For studies analysing the *ḥāshiyahs* and discussions on *al-Muqaddimât al-arba'* chapter of *al-Talwīḥ* in this period, see Şule Güldü, "Osmanlı Dönemi Fıkıh Usûlü Çalışmaları: Hüsün-Kubuh Zemininde Oluşan Mukaddimât-ı Erbaa Literatürü" (PhD diss., Samsun: Ondokuz Mayıs University, 2019); Mustafa Bilal Öztürk, "Mukaddimât-ı Erbaa Hâşiyelerinde Kelâmî Tartışmalar (Alâeddin Arabî Bağlamında)" (PhD diss., Izmir: Dokuz Eylül University, 2020). For a study that analyses the *ḥāshiyahs* in this century through the debates around the subject of *taklîf* (divine obligation) and relates the production of knowledge in the

however, have been devoted to the progress of this *ḥāshiyah* tradition in the sixteenth century when Surūrī Chalabī produced his works. Moreover, while there are many academic studies on Surūrī Chalabī’s literary works, his works in Islamic sciences have not yet drawn the same attention.⁶ Thus, Surūrī Chalabī’s contribution to Islamic thought in general and to *uṣūl al-fiqh* (Islamic legal theory) seems to need more research. As an attempt in this direction, this study aims to clarify the position of Surūrī Chalabī’s *ḥāshiyah* on *al-Talwīḥ* in the tradition of Islamic thought in general and in the tradition of Ottoman thought in particular. Utilizing Surūrī Chalabī’s *ḥāshiyah* as the primary source, this study will focus on the questions of which authors are engaged with by him in the *ḥāshiyah* tradition

ḥāshiyahs to the intellectual agenda of the intellectual circle of the period, see Çelik, “XV. yy. Osmanlı Düşüncesinde Telvîh Hâşiyeleri: Teklîfe Dair Tartışmalar.” For the critical edition of some *ḥāshiyahs* on the whole or a part of *al-Talwīḥ* in the fifteenth century, see Hasan Özer, “Ali Kuşçu ve ‘Hâşiyeye ale’-Telvîh’ Adlı Eseri,” *İslam Hukuku Araştırmaları Dergisi* 13 (2009), 361-392; Hasan Özer, “Molla Samsûnîzâde’nin *Ta’lîka ‘ale’l-Mukaddimâti’l-Erba‘a* Adlı Risâlesinin Tahkikli Neşri,” *Tabkik İslami İlimler Araştırma ve Neşir Dergisi* 1, no. 1 (2018), 169-240; Oğuz Bozoğlu, “Kestelî ve *Hâşiyeye ‘ale’l-mukaddimâti’l-erba‘a* İsimli Eseri: Tahkîk ve Tahlîl” (master’s thesis, Istanbul: Marmara University, 2019); İlyas Yıldırım, “Osmanlı Ulemasının Fıkıh Usulü Çalışmalarına Katkısı: Hasan Çelebi ve Telvîh Hâşiyesi Örneği,” *Trabzon İlahiyat Dergisi* 6, no. 1 (2019), 189-213; Mustafa Bilal Öztürk, “Muslihuddin Kestelî’nin *Hâşiyetü’s-sugrâ ‘ale’l-mukaddimâti’l-erba‘a* Adlı Eseri: Tahlil ve Tahkik,” *Kader* 18, no. 2 (2020), 666-724; Mustafa Borsbuğa and Coşkun Borsbuğa, “Hatibzâde Muhyiddin Efendi’nin *Hâşiyeye ‘ale’l-Mukaddimâti’l-Erba‘a* Adlı Hâşiyesinin Tahkik ve Tahlili,” *Tabkik İslami İlimler Araştırma ve Neşir Dergisi* 4, no. 2 (2021), 209-346.

⁶ An exception to this is the critical edition and analysis of Surūrī’s *Tafsîr-i Sûrah-’i Yûsuf*. In this analysis, the method of exegesis (*tafsîr*) in the work is focused on, rather than where the work stands in the history of exegesis, similar to the studies that have been done in a widespread manner. See Nazife Göksu, “Osmanlı Âlimi ve Dîvan Şairi Muslihuddin Mustafa es-Sürûrî’nin Hayatı ve ‘Tefsîr-i Sûre-i Yûsuf’ Adlı Eserinin İncelenmesi” (master’s thesis, Antalya: Akdeniz University, 2017). The fact that both studies, which complement each other and include the critical edition and analysis of Surūrī’s other exegesis written in Turkish, were prepared in the Department of Turkish Language and Literature is significant in terms of indicating that they were analysed only in terms of their linguistic and literary aspects, not in terms of their importance as a work produced in the field of Islamic thought. See Habibe Bozkaya İnce, “Gelibolulu Sürûrî Muşliḥî’-d-dîn Muştafâ bin Şa’bân: ‘Tefsîrül-Ḳur’âni’-‘Azîme’ (51a-120b vr.) (İnceleme-Metin-Dizin-Tıpkıbasım)” (master’s thesis, Ankara: Ankara University, 2021); Ayberk Kurtgel, “Gelibolulu Sürûrî Muşliḥî’-d-dîn Muştafâ bin Şa’bân: ‘Tefsîrül-Ḳur’âni’-‘Azîme’ (121a-191a Varakları Arası) (İnceleme-Metin-Dizin-Tıpkıbasım)” (master’s thesis, Ankara: Ankara University, 2021).

he inherited,⁷ in which aspects he contributed to this tradition, and in what ways he established an intellectual connection with his interlocutors, particularly through criticisms in his *ḥāshiyah*.

This research tries to find out to which previous *ḥāshiyah* writers on *al-Talwīḥ* Surūrī Chalabī referred anonymously and whose arguments he dealt with through synchronic and diachronic analysis of *al-Talwīḥ*'s *ḥāshiyahs* and some other works in the field of *uṣūl al-fiqh*. Moreover, by comparing Surūrī's intellectual connection with his interlocutors in his *ḥāshiyah* with that of the interlocutors and the production of knowledge in *ḥāshiyahs* of the previous century. Thus, such comparative analysis will allow us to trace the continuity and transformation in that literary tradition. To further elaborate on the continuities and ruptures, this article scrutinizes three sample discussions in Surūrī's work, which sheds light on the author's intellectual relationship with his interlocutors.

This article will first provide information about the scholarly career and intellectual heritage of Surūrī. It will then explain the development of *ḥāshiyah* literature formed around *Talwīḥ* up to the era of Surūrī. After this historical context, it will discuss how Surūrī engaged in dialogue with the intellectual heritage of his interlocutors in his *ḥāshiyah* and analyse the characteristics of his work with special reference to three of his criticisms in it.

I argue that Surūrī, in his predominantly critical *ḥāshiyah*, establishes a connection with his interlocutors through their arguments rather than their opinions, in a similar way to *ḥāshiyah* writers of the previous century – which suggests continuity in the *ḥāshiyahs* of *Talwīḥ* from the fifteenth to the sixteenth centuries. Yet, despite this similarity, Surūrī mostly built his *ḥāshiyah* around the statements of Ḥasan Chalabī (d. 891/1486), a member of the scholarly circle in which he grew up, instead of the names such as Ṣadr al-sharī'ah and al-Taftāzānī.

⁷ Throughout the article, the term “interlocutor” refers not to the scholars whom Surūrī Chalabī debated in the same century but rather to the authors of *ḥāshiyahs*, regardless of whether they lived before him or were his contemporaries, whose views and arguments are interpreted and discussed by Surūrī in his *Ḥāshiyah*. In this respect, I preferred the meaning of a confrontation that takes place at the intellectual level and often transcends historical synchronicity instead of the literal meaning of the term “addressing.”

1. Scholarly Career and Intellectual Heritage of Surūrī Chalabī

Muṣliḥ al-Dīn Muṣṭafá (d. 969/1562), famous by his nickname Surūrī, was born in Gallipoli in 897/1491.⁸ His father was a wealthy merchant and eagerly supported his son to receive a good education.⁹ Surūrī studied under eminent scholars of the period, including ‘Abd al-Wāsi‘ Efendī (d. 944-945/1538-1539),¹⁰ Qadrī Chalabī (d. 959/1552),¹¹ Ṭāshkuprīzādah Muṣṭafá Efendī (d. 935/1529), Qarah Dāwūd Izmīti (d. 948/1541), and Nihālī Ja‘far Chalabī (d. ca. 950/1544)¹² who was also a poet. Then, he entered the service of Fanārīzādah Muḥyī al-Dīn Meḥmed (d. 954/1548) and finished his scholarly education.¹³

When his teacher Fanārīzādah Muḥyī al-Dīn was promoted to the judgeship of Istanbul, he was appointed as one of his deputies (*nā’ib*)¹⁴ in Istanbul Bab Court in 927/1521. Upon Fanārīzādah’s promotion to the office of chief judge (*qāḍī ‘askar*) of Anatolia in

⁸ İsmail Güleç, “Gelibolulu Muslihuddin Sürûrî, Hayatı, Kişiliği, Eserleri ve *Babrü’l-Ma‘ârif* İsimli Eseri,” *Osmanlı Araştırmaları: The Journal of Ottoman Studies* XXI (2001), 211.

⁹ Naw‘īzādah ‘Aṭā’i (as Nev‘īzāde Atâyi), *Hadâ’iq al-ḥaqâ’iq fî takmilat al-Shaqâ’iq* (as *Hadâiku’l-Hakâ’ik fî Tekmiletî’ş-Şakâ’ik: Nev‘īzāde Atâyi’nin Şakâ’ik Zeyli*), ed. Suat Donuk (Istanbul: Türkiye Yazma Eserler Kurumu Başkanlığı, 2017), I, 295.

¹⁰ ‘Abd al-Wāsi‘ Efendī travelled to *Bilād al-‘Ajam* (Iran) for his scholarly studies and received education and studied in Herat under al-Taftāzānī’s grandson, Sayf al-Dīn Aḥmad al-Harawī. He attained high ranks by serving as a professor (*mudarris*) at Eight Madrasahs (Şahṅ madrasahs), *qāḍī* (judge) of Bursa and Istanbul, and the chief judge (*qāḍī ‘askar*) of Anatolia and Rumelia. See Ṭāshkuprīzādah Abū l-Khayr ‘Iṣām al-Dīn Aḥmad Efendī, *al-Shaqâ’iq al-Nu‘māniyyah fî ‘ulamā’ al-Dawlah al-‘Uthmāniyyah*, ed. Ahmed Subhi Furat (Istanbul: İstanbul Üniversitesi Edebiyat Fakültesi Yayınları, 1985), 392-393.

¹¹ When ‘Aṭā’i refers to this teacher of Surūrī as Qadrī Efendī, he must be referring to the scholar mentioned as Qadrī Chalabī in *al-Shaqâ’iq*. Qadrī Chalabī occupied high-ranking positions such as being a *mudarris* at Şahṅ madrasahs and Bursa Sultaniye (Çelebi Mehmed) Madrasah and as a *qāḍī ‘askar* of Anatolia. See Ṭāshkuprīzādah, *al-Shaqâ’iq*, 443.

¹² Nihālī was also appointed as a *mudarris* in some madrasahs in addition to being appointed as the *qāḍī* of Galata. For information about his life, see *Ibid.*, 478-479.

¹³ ‘Aṭā’i, *Hadâ’iq al-ḥaqâ’iq*, I, 295-296.

¹⁴ In the Ottoman judicial system, the deputy or assistants of the *qāḍī* were referred to as *nā’ib*, and the chief deputy of the Istanbul *qāḍī* was referred to as the *nā’ib* of the Istanbul Bab Court. For comprehensive information, see Mehmet İpşirli, “Nâib,” in *Türkiye Diyanet Vakfı İslâm Ansiklopedisi (DİA)*, XXXII, 312-313.

early 929/1522, Surūrī was assigned as the private secretary (*tadbkirahjī*).¹⁵ Nevertheless, when he was accused of leaking some official secrets to his teacher ‘Abd al-Wāsi‘ Efendī while he was serving in this position, he was obliged to quit his scholarly career. Then he joined the path of Sufism and pledged allegiance to Maḥmūd Efendī (d. 938/1531), who was the caliph of the Naqshbandī Sheikh Amīr Bukhārī in his *zāwiyah*.¹⁶ In the following years, Surūrī performed the pilgrimage and re-entered scholarly service upon his return to Istanbul. He managed to receive the status of novice (*mulāzamab*)¹⁷ from his professor Fanārīzādah and was appointed as a professor (*mudarris*) at the Sarıca Pasha Madrasah in his hometown, Gallipoli, in 930/1523. In 933/1526, he was promoted to the Pīrī Pasha Madrasah.¹⁸

In 944/1537, Surūrī was commissioned with a salary of 50 aspers to the madrasah built by the vizier Güzelce Qāsim Pasha (d. after 948/1541) in the present-day Kasımpaşa district, which was named after him, located on the opposite side of the Golden Horn. When Fanārīzādah Muḥyī al-Dīn, his protector, passed away in 954/1548, Surūrī resigned from professorship and abandoned the pursuits of daily life. He entered the service of Khwājah ‘Abd al-Laṭīf Efendī (d. 971/1563-64), the current sheikh in the abovementioned Amīr Bukhārī Zāwiyah.¹⁹ Receiving the news of his resignation, Güzelce Qāsim Pasha, the sub-governor of Morea, became upset and urged Surūrī to return to his post at his madrasah. Surūrī accepted this request stipulating that he would recite the *Mathnawī*, the famous

¹⁵ ‘Aṭā’ī, *Ḥadā’iq al-ḥaqā’iq*, I, 296. Private secretaries (*tadbkirahjīs*) were the personnel of the Beylikçi Kalemi (Head clerk) under the Imperial Council (Dīwān-i Humāyūn) in the Ottoman bureaucracy. They were responsible for reciting aloud the submissions received at the meetings of the Imperial Council and serving as the principal clerks of the grand vizier. Emel Soyer, “XVII. yy. Osmanlı Divan Bürokrasisindeki Değişimlerin Bir Örneği Olarak Mühimme Defterleri” (master’s thesis, Istanbul: Istanbul University, 2007), 14.

¹⁶ ‘Aṭā’ī, *Ḥadā’iq al-ḥaqā’iq*, I, 296.

¹⁷ In the Ottoman scholarly system, the *mulāzamab* was the practice in which a student who graduated from a madrasah would serve the master (*mullā/mawlā*) as an assistant (*mu‘īd*) in exchange for the master’s approval of the scholarly competence of the student and his inclusion in the bureaucratic hierarchy. See Abdurrahman Atçıl, *Scholars and Sultans in the Early Ottoman Empire* (Cambridge: Cambridge University Press, 2017), 102-106.

¹⁸ ‘Aṭā’ī, *Ḥadā’iq al-ḥaqā’iq*, I, 296.

¹⁹ *Ibid.*

work of al-Rūmī (d. 672/1273), after afternoon prayers at the Kasım Paşa Mosque.²⁰

Khayr al-Dīn Khiḍr, the tutor of Shāhzādah Muṣṭafá, passed away in 953/1546. Thereupon Sultan Suleiman, on his way to the Campaign of Van, appointed Surūrī as Shāhzādah Muṣṭafá's new tutor in 955/1548. Even though 'Aṭā'ī narrates that Surūrī had traveled to Karaman, where the prince was stationed when he was appointed to this scholarly position,²¹ he had likely traveled to Amasya upon his appointment. For other sources agree that the prince was dismissed from the governorship of Saruhan (Manisa) in 948/1541 and appointed to the governorship of Amasya. There is no mention of any subsequent reassignment.²²

Surūrī continued to serve in this position from 955/1548 until 25 Shawwāl 960/4 October 1553, when Shāhzādah Muṣṭafá was executed in Ereğli (Konya). During this period, he gained considerable closeness with the prince.²³ Shāhzādah Muṣṭafá, who was fond of literature, gathered many scholars and literary men around him in Amasya. This intellectual group, which also included Surūrī, was composed of some of the leading intellectuals of the period, such as the prince's dīwān clerk Qarah Faḍlī (d. 971/1564), Kāmī Muḥammad Qarahmānī (d. 952/1545), and Adā'ī Chalabī (d. 982/1574).²⁴

It is reported that Surūrī, who was deeply saddened by the execution of the prince and retreated into seclusion, was not deemed worthy of good treatment by the statesmen and that he managed his life with the income from his books and with the aid of his social

²⁰ Güleç suggests that this insistence of Qāsim Pasha may have been caused by the support of the people and his students for Surūrī or by the fact that Surūrī was his fellow countryman. See Güleç, "Gelibolulu Muslihuddin Sürûrî," 214.

²¹ 'Aṭā'ī, *Ḥadā'iq al-ḥaqā'iq*, I, 297.

²² Ḥusayn Ḥusām al-Dīn, *Amasya Tārīkhi* (Istanbul: Necm-i İstikbâl Matbaası, 1927), III, 302-310; Güleç, "Gelibolulu Muslihuddin Sürûrî," 215; Şerafettin Turan, "Mustafa Çelebi," in *Türkiye Diyanet Vakfı İslâm Ansiklopedisi (DİA)*, XXXI, 290-292.

²³ Ḥusayn Ḥusām al-Dīn, *Amasya Tārīkhi*, III, 308; Güleç, "Gelibolulu Muslihuddin Sürûrî," 217.

²⁴ Ḥusayn Ḥusām al-Dīn, *Amasya Tārīkhi*, III, 305.

circle without receiving an official salary for nine years until his death from cholera on the 7th of Jumādā l-awwal in 969/1562.²⁵

The time in which Surūrī Chalabī lived corresponds to the “consolidation period” of the Ottoman scholarly bureaucracy (1530-1600). During this period, the scholar-bureaucrats’ bond with the Ottoman dynasty strengthened, and the scholars (‘ulamā’) in the service of the Ottoman Empire evolved into “a self-producing group” with the establishment of the *mulāzamaḥ* system.²⁶ In this bureaucracy, Surūrī Chalabī followed an educational career starting from a low-level professorship,²⁷ and finally, he was appointed as the prince’s tutor. He reached Ottoman Dignitary (Mawlawiyyah)²⁸ rank in the Ottoman scholarly bureaucracy during his lifetime. In addition to the high-ranking scholarly positions that he held in the bureaucracy, Surūrī Chalabī also stands out with the intellectual legacy he left behind. He made significant contributions to Ottoman thought in different fields through his approximately thirty works, most of which are in literature. He owes his fame today primarily to these works. In the field of literature, Surūrī Chalabī wrote commentaries on works such as *Mathnawī*, *Bustān*, *Gulistān*, *Dīwān* of *Ḥāfiẓ*, *Mu‘ammāyāt*, and *Shabistān-i Khayāl*. He also wrote *Dīwānchah*, which includes his mystical poems, and a work of Turkish rhetoric known as *Baḥr al-ma‘ārif* (dated 956/1549).²⁹ He wrote commentaries on *Bustān*, *Gulistān*, and *Shabistān-i Khayāl*

²⁵ ‘Aṭṭā’ī, *Ḥadā’iq al-ḥaqā’iq*, I, 297-298. While this is the information in the chronicles, an archival document dated 5 Sha‘bān 970/1563 identifies Surūrī ibn Sha‘bān as the *qāḍī* of Galata. (Directorate of State Archives Ottoman Archives, *Archive Document of the Topkapı Palace Museum [TS.MA.e]*, No. 177/2). While this document indicates that Surūrī was still alive at this date and that he was assigned to some scholarly positions after serving as a tutor to the prince, it is beyond the boundaries of this study to analyse this finding.

²⁶ Atçıl, *Scholars and Sultans*, 132-133.

²⁷ *Ibid.*, 183.

²⁸ For information on the place of the Dignitary (*Mawlawiyyah*) in the Ottoman scholarly bureaucracy and the privileges granted to the *Mawlawiyyah* authorities, see *Ibid.*, 134-144.

²⁹ For the critical edition of the work, see Yakup Şafak, “Sürūrī”nin Bahrü'l-Ma‘ārifi ve Enīsü'l-Uşşāk ile Mukayesesi” (PhD diss., Erzurum: Atatürk University, 1991), 1-425.

either upon the request of Shāhzādah Muṣṭafā or he dedicated these works to him.³⁰

The disciplines of Arabic linguistics and logic, which are considered to be instrumental disciplines (*‘ulūm al-ālāt*) for classical Islamic disciplines, are also among the fields Surūrī Chalabī contributed. He wrote a commentary on al-Muṭarrizī’s (d. 610/1213) *al-Miṣbāḥ* and Ibn al-Ḥājjib’s *al-Kāfiyah* and a *ḥāshiyah* on *al-Ḍaw’*, Tāj al-Dīn al-Isfarā’inī’s commentary on *al-Miṣbāḥ* in terms of Arabic syntax (*naḥw*). He wrote commentaries on *Amsilah*, *Binā’*,³¹ and *Marāḥ al-arwāḥ*,³² which were famous textbooks on Arabic morphology (*ṣarf*) taught in Ottoman educational institutions. The high number of manuscript copies of these commentaries in the Ottoman libraries suggests that they received considerable attention from the Ottoman scholarly circles.³³ Surūrī wrote a *ḥāshiyah* on the commentary of Ḥusām al-Dīn Ḥasan al-Kātī in the field of classical logic as well.³⁴

Surūrī Chalabī also produced works in various Islamic disciplines. In this regard he wrote a *ḥāshiyah* on al-Qāḍī al-Bayḍāwī’s *Anwār al-tanzīl wa-asrār al-ta’wīl*, *Tafsīr sūrat Yūsuf*, and *Tafsīr al-Qur’ān al-‘azīz* in the field of exegesis.³⁵ He authored a *ḥāshiyah* on *al-‘Ināyah*, the commentary on *al-Hidāyah* by Akmal al-Dīn al-Bābartī (d. 786/1384) in *fiqh*,³⁶ and dedicated this work to Shāhzādah Muṣṭafā. In this *ḥāshiyah*, Surūrī responded to the criticisms by Kamālpashazādah (d. 940/1533), whom he referred to as *ba‘ḍ al-*

³⁰ For detailed information about his works, see Güleç, “Gelibolulu Muslihuddin Sürûrî,” 224-233.

³¹ For a study containing the critical edition of the work, see Rashadat Hidayatov, “Gelibolulu Muslihuddin Mustafa b. Şaban Sürûrî’nin *Şerhu’l-Binâ* Adlı Eserinin Tahkiki” (master’s thesis, Istanbul: Marmara University, 2009).

³² For a study containing the critical edition of the work, see Ali Bağcı, “Muslihiddin Mustafa b. Şaban Sürûrî’nin *Şerhu Merâhi’l-Ervâh* Adlı Eserinin Edisyon Kritiği” (master’s thesis, Yalova: Yalova University, 2015).

³³ For information on some aspects of the commentary on the *Amsilah*, see Güleç, “Gelibolulu Muslihuddin Sürûrî,” 228.

³⁴ The determination of these works is based on data obtained from the following database which contains the records of Turkish manuscript libraries: Türkiye Diyanet Vakfı İslam Araştırmaları Merkezi (İSAM), “Türkiye Kütüphaneleri Veri Tabanı” (14th of February, 2022).

³⁵ For information on the studies that include the critical editions of Surūrī’s exegetical works, please refer to the introduction of this article.

³⁶ Güleç, “Gelibolulu Muslihuddin Sürûrî,” 226.

muta'akbkbirīn, and leveled against both the author and the commentator.³⁷ Surūrī Chalabī also wrote a *ḥāshiyah* on al-Taftāzānī's *al-Talwīḥ* in the field of *uṣūl al-fiqh*, which constitutes the subject matter of this article. Although 'Aṭā'ī claims that Surūrī Chalabī wrote a commentary on the famous hadith collection, titled *Ṣaḥīḥ al-Bukhārī*, up to half of its content,³⁸ none of the copies of this work is available today.

Another significant field to which Surūrī contributed was medicine. He wrote a commentary on Ibn al-Nafīs' (d. 687/1288) *Mūjaz al-Qānūn*, which is one of the famous summaries of Ibn Sīnā's *al-Qānūn*, as well as a work titled *Kitāb al-Shahādah* in this field. Moreover, he translated a Persian work on Far Eastern medicine, the *Risālah-'i Panch Chīnī*, into Turkish.³⁹ Not only interested in medicine but also history, Surūrī translated *Tārīkh-i Kbiṭā wu Khūtan u Chīn u Māchīn*, a book about the history of Far Eastern countries, and *Rawḍ al-rayāḥīn fī ḥikāyat al-ṣāliḥīn*, a book about the stories of scholars and Sufis, into Turkish. As for politics, upon the request of the prince, Surūrī translated the Persian political treatise *Dhakhīrat al-mulūk*, written by Amīr Kabīr al-Sayyid 'Alī al-Hamadānī (d. 786/1385), the founder of the Hamadāniyyah branch of the Kubrawiyyah order, into Turkish in 960/1552.⁴⁰ In addition, he started the translation of *'Ajā'ib al-makblūqāt* at Shāhzādah Muṣṭafā's request but left it unfinished after the execution of the prince.⁴¹

His works show that Surūrī Chalabī was knowledgeable enough to write or translate works in many fields, such as literature, Islamic disciplines, the grammar of the Arabic language, medicine, history, and politics. It is noteworthy that Surūrī Chalabī was a versatile scholar similar to Kamālpashazādah, whom he criticized in his *ḥāshiyah* on *al-Talwīḥ*, and that he wrote on a wide variety of subjects just like him.

³⁷ For a sample critic see Surūrī Chalabī, *Ḥāshiyah 'alā l-'Ināyah* (Istanbul: Süleymaniye Library, İsmihan Sultan, MS 128), fols. 1b-2a.

³⁸ 'Aṭā'ī, *Ḥadā'iq al-ḥaqā'iq*, I, 299.

³⁹ İsmail Güleç, "Sürûrî, Muslihuddin Mustafa," in *Türkiye Diyanet Vakfı İslâm Ansiklopedisi (DİA)*, XXXVIII, 172.

⁴⁰ Güleç, "Gelibolulu Muslihuddin Sürûrî," 231.

⁴¹ *Ibid.*, 230.

2. A Scholarly Tradition Inherited by Surūrī Chalabī: The Literature of *Hāshiyahs* on *al-Talwīh*

Saʿd al-Dīn al-Taftāzānī is one of the most influential authoritative figures in the post-classical era of the tradition of Islamic thought. His intellectual legacy has been discussed in many scholarly circles, and his works have been widely studied.⁴² To make a specific observation about *al-Talwīh*, the interpretations and criticisms brought by al-Taftāzānī in his *al-Talwīh* to the *uṣūl* thought in Ṣadr al-sharīʿah's *al-Tanqīh* and its commentary *al-Tawḍīh* have been discussed by a considerable number of scholars. The critical *hāshiyahs* written on *al-Talwīh* by his intellectual opponent al-Sayyid al-Sharīf al-Jurjānī (d. 816/1413), who shared the same scholarly circle with al-Taftāzānī in Transoxania, and Qāḍī Burhān al-Dīn (d. 800/1398), one of the famous statesmen of Lands of Rum (*Bilād al-Rūm*), are among the earliest texts in which such debates can be detected.⁴³

One of the centers where al-Taftāzānī's intellectual legacy was the most influential was probably the Ottoman scholarly circle. Al-Taftāzānī's works began to become popular and taught in *Bilād al-Rūm*, which was also at the heart of the Ottoman scholarly circle, from the late fourteenth century to the first quarter of the fifteenth century, not long after they were written.⁴⁴ Although the scholars there seem to have written the first *hāshiyah* on al-Taftāzānī's works towards the middle of the fifteenth century, it was not until the second half of the fifteenth century that these works were placed at the center of the intellectual production of the Ottoman scholarly circle and the widespread writing of *hāshiyahs* on these works took place. The works of al-Taftāzānī and his contemporary and intellectual opponent al-Sayyid al-Sharīf al-Jurjānī formed the basis for intensive knowledge production at this time. The works of the authoritative figures of the post-classical era, such as Ṣadr al-sharīʿah,

⁴² Şükrü Özen, "Teftâzânî," in *Türkiye Diyanet Vakfı İslâm Ansiklopedisi (DİA)*, XL, 299-308.

⁴³ Çelik, "XV. yy. Osmanlı Düşüncesinde Telvîh Hâşiyeleri: Teklîfe Dair Tartışmalar," 33-35.

⁴⁴ The oldest dated copies and historical records of the works in Ottoman libraries support this data. See İmam Rabbani Çelik, "XV. Asır Osmanlı Entelektüel Çevresi İçin Teftâzânî Ne İfade Eder?: Hâşiyelerinde Otorite İsim Olarak Teftâzânî," in *Osmanlı Düşüncesi: Kaynakları ve Tartışma Konuları*, ed. Fuat Aydın, Metin Aydın, and Muhammet Yetim (Istanbul: Mahya Yayıncılık, 2018), 193-196.

al-Khaṭīb al-Qazwīnī (d. 739/1338), Shams al-Dīn Maḥmūd ibn ‘Abd al-Raḥmān al-Iṣfahānī (d. 749/1349), ‘Aḍud al-Dīn al-Ījī (d. 756/1355), Ibn Mubārakshāh (d. after 784/1382), were not read or studied directly, but through the works of these two scholars, and were the subject of works in the form of commentaries and *ḥāshiyabs*.⁴⁵ In this respect, one of the works on which the most *ḥāshiyabs* were written was, without a doubt, al-Taftāzānī's *al-Talwīḥ*.

The prominent scholars of the Ottoman scholarly circle, such as Mullā Aḥmed Qirīmī (d. around 855/1451), Muṣannifak (d. 875/1470), ‘Alī Qushjī (d. 879/1474), Mullā Khusraw (d. 885/1480), ‘Alā’ al-Dīn al-Ṭūsī (d. 887/1482), Khojazādah Muṣliḥ al-Dīn Muṣṭafā (d. 893/1488), Mullā Aḥmad al-Khayālī (d. around 875/1470), Sāmsūnizādah Ḥasan (d. 891/1486), Ḥasan Chalabī al-Fanārī, Mullā ‘Abd al-Karīm (d. 895/1489), Mullā ‘Alā’ al-Dīn ‘Arabī (d. 901/1496), Muṣliḥ al-Dīn Muṣṭafā al-Kastalī (d. 901/1496), Khaṭībzādah Muḥyī al-Dīn (d. 901/1496), Ḥājīḥasanzādah Muḥammad (d. 911/1505), and Mullā Luṭfī (d. 900/1495) wrote *ḥāshiyabs* on a certain part or the entirety of *al-Talwīḥ*. It gives an idea about the vastness of the literature that more than twenty *ḥāshiyabs* were written in this century.⁴⁶ These scholars sometimes reflected their different intellectual inclinations in their *ḥāshiyabs* within the scope of the discussions in which they evaluated “the arguments on which these views are based rather than the views themselves.”⁴⁷ However, they sometimes addressed the comments and arguments of al-Taftāzānī,

⁴⁵ Al-Taftāzānī's *Sharḥ al-‘Aqā’id* and al-Jurjānī's *Sharḥ al-Mawāqif* and *Ḥāshiyat al-Tajrid* in theology, and al-Taftāzānī's *al-Talwīḥ* and al-Jurjānī's *Ḥāshiyat Sharḥ al-Mukhtaṣar* in *uṣūl al-fiqḥ*, al-Taftāzānī's *al-Muṭawwal* and al-Jurjānī's *Sharḥ al-Miftāḥ (al-Miṣbāḥ)* in rhetoric and al-Jurjānī's *Ḥāshiyah ‘alā Sharḥ Ḥikmat al-‘ayn* in philosophy were the most widely studied works in the Ottoman scholarly circle of the fifteenth century. For more information on that literature see Müstakim Arıcı, “Bir Otorite Olarak Seyyid Şerîf Cürçânî ve Osmanlı İlim Hayatındaki Yeri,” in *İslâm Düşüncesinde Süreklilik ve Değişim*, ed. M. Cüneyt Kaya (Istanbul: Klasik Yayınları, 2015), 80-90; Çelik, “XV. Asır Osmanlı Entelektüel Çevresi İçin Teftâzânî Ne İfade Eder?,” 198-202.

⁴⁶ Ḥājī Khalīfah Muṣṭafā ibn ‘Abd Allāh Kātib Chalabī, *Kashf al-ẓunūn ‘an asāmī l-kutub wa-l-funūn*, ed. Mehmet Şerefeddin Yaltkaya and Kilisli Rifat Bilge (Ankara: Milli Eğitim Bakanlığı, 1971), I, 496-9; Çelik, “XV. yy. Osmanlı Düşüncesinde Telvîh Hâşiyeleri,” 71-94.

⁴⁷ For another study claiming that the debates in the *ḥāshiyabs* on *al-Talwīḥ* mostly took place on the evidences, see Dinç, “Kadı Burhâneddin’in Tercîhu’t-Tavzîh İsimli Eserinin Tahkiki ve Değerlendirmesi,” 2.

sometimes al-Jurjānī, and occasionally other scholars who were contemporaries of these two scholars. In these discussions conducted through the comments and arguments of authoritative characters, the authors of the *ḥāshiyahs* endeavored to “demonstrate their scholarly competencies” within the intellectual community of the period.⁴⁸ Within this framework, while criticizing the arguments of their opponents, they directed several criticisms, such as that these arguments were invalid or inconsistent, that they were inappropriate for the argument they were produced against, or that they were not under the principles of inquiry and dialectics (*ādāb al-baḥth*),⁴⁹ which constituted an essential part of the argumentation technique.⁵⁰

By the sixteenth century, a significant contraction was witnessed in *al-Talwīḥ ḥāshiyahs* literature compared to the previous century. The authors who wrote a *ḥāshiyah* on *al-Talwīḥ* in the Ottoman scholarly circle in this century were Muḥammad al-Bardaī (d. 927/1521), Kamālpashazādah, Abū l-Su‘ūd Efendī (d. 982/1574), ‘Abd al-Şamad al-Ḥusaynī al-Ṭālishī,⁵¹ and the subject matter of this article, Surūrī Chalabī. While in the previous century, approximately twenty scholars in the Ottoman scholarly circle wrote *ḥāshiyahs* on this work, in the sixteenth century, the number of these scholars decreased to five, based on what can be determined. This situation may have resulted from the reaching maturity in this literature. However, it may also have been because the writing of *ḥāshiyah* was focused on other works in this period. Furthermore, among those who wrote *ḥāshiyah* on *al-Talwīḥ* in the sixteenth century, especially Kamālpashazādah and Abū l-Su‘ūd Efendī held the position of the

⁴⁸ Çelik, “XV. yy. Osmanlı Düşüncesinde Telvîh Hâşiyeleri,” 78.

⁴⁹ For detailed information about evaluation of the *ādāb al-baḥth* discipline in Islamic thought and its principles, see El-Rouayheb, *Islamic Intellectual History in the Seventeenth Century*, 60-96.

⁵⁰ For the criticism forms in the *ḥāshiyahs* of this period, see Çelik, “XV. yy. Osmanlı Düşüncesinde Telvîh Hâşiyeleri,” 94-102.

⁵¹ Historically, Ṭālish refers to a geographical region and ethnic group inhabiting the territory of present-day Iran on the border of Azarbaijan and the shores of the Caspian Sea. The author of the *ḥāshiyah*, ‘Abd al-Şamad al-Ḥusaynī al-Ṭālishī, was probably a scholar who migrated to the Ottoman lands from this region. The dedication of his *ḥāshiyah* to Bayrāmzādah Zakariyyā Efendī, the *qāḍī ‘askar* of Rumelia (‘Abd al-Şamad al-Ḥusaynī al-Ṭālishī, *Hāshiyah ‘alā l-Talwīḥ* [Istanbul: Murat Molla Library, MS 646], fols. 1b-2a), suggests that al-Ṭālishī wrote the work during the term of (997/1589-1000/1592); Mehmet İpşirli, “Zekeriyâ Efendi, Bayramzâde,” in *Türkiye Diyanet Vakfı İslâm Ansiklopedisi (DİA)*, XXXIV, 211.

chief jurist (*sheikh al-islām*), which was the top-ranking scholarly position in the Ottoman academic bureaucracy,⁵² and al-Bardaʿī, who came to *Bilād al-Rūm* from the Khurasan region, served as a *mudarris* in some educational institutions, especially in Üç Şerefeli Madrasah.⁵³ Surūrī Chalabī served as the tutor of the prince in addition to his work as a *mudarris*, while al-Ṭālishī, who seems to have come to the lands of the Ottoman heartland known as *Bilād al-Rūm*, was not promoted to high-level bureaucratic positions as far as it is known.

Taking the Ottoman scholarly tradition into account, the interlocutors of the *ḥāshiyabs* written on *al-Talwīḥ* in the sixteenth century also seem to undergo a significant change. The fact that the issues in the *ḥāshiyabs* written in the fifteenth century were discussed through the wording of *al-Talwīḥ* indicates that Şadr al-sharīʿah's *al-Tawḍīḥ* was read through the interpretations and criticisms by al-Taftāzānī. It is also possible to see this explicitly in the discussions of the said century.⁵⁴ Although the majority of the *ḥāshiyabs* written on *al-Talwīḥ* in the sixteenth century continued to discuss the statements of al-Taftāzānī, the words of Şadr al-sharīʿah were also started to be discussed directly.⁵⁵ Moreover, in this century, the statements of the *ḥāshiyab* writers of the previous century, especially those of Mullā

⁵² *Sheikh al-islām*, who was the mufti of Istanbul at the beginning, became “the top official in the hierarchy” during the consolidation period (1530-1600) of the Ottoman learned hierarchy. Thanks to this superiority, he was able to shape the internal and foreign policies of the empire by the legal opinions (*fatwās*) he issued and had the authority to appoint scholar-bureaucrats to high-level *madrasabs*. For detailed information, see R. C. Repp, *The Mufti of Istanbul: A Study in the Development of the Ottoman Learned Hierarchy* (London: Ithaca Press, 1986), 293-297; Atçıl, *Scholars and Sultans*, 138.

⁵³ Ṭāshkuprizādah, *al-Shaqāʿiq*, 402.

⁵⁴ For the details of some of the discussions over the interpretations and criticisms of al-Taftāzānī, see Çelik, “XV. yy. Osmanlı Düşüncesinde Telvîh Hâşiyeleri,” 118-242.

⁵⁵ What is meant here by the direct discussion of an author's statements in the *ḥāshiyabs* is that the author of the *ḥāshiyab* quotes the phrases of that author with expressions such as *qawlubū*, *qāla l-muşannif* or *qāla l-muḥaşsbī* and discusses the issue based on these phrases. The author of the *ḥāshiyab* indirectly includes the other ideas and criticisms brought to the agenda through the phrases he quoted by these expressions. For example, the author of a *ḥāshiyab* directly quotes al-Taftāzānī's criticism directed at Şadr al-sharīʿah with the expression *qawlubū* and then proceeds to discuss it with the expression *aqūl!*. During this analysis, the author indirectly refers to the criticisms directed against al-Taftāzānī by using expressions such as *qāla*, *u'tturīda*, *ujība*, or *qāla ba'd al-afāḍil*.

Khusraw and Ḥasan Chalabī al-Fanārī, also occupied the center position of the *ḥāshiyah*.⁵⁶ *Tagbyir al-Tanqīḥ* which was written by Kamālpashazādah, one of the names who wrote a *ḥāshiyah* on *al-Talwīḥ* in the sixteenth century, by criticizing and modifying the statements of Ṣadr al-sharī‘ah in *al-Tanqīḥ* along with the aforementioned *ḥāshiyah*, is an interesting sample in this respect. Because Kamālpashazādah, in this work, directly discussed the statements of Ṣadr al-sharī‘ah and subjected them to critical reading in a manner relatively independent of the comments and criticisms by al-Taftāzānī. It would be possible to consider this change from the fifteenth to the sixteenth century as a favorable development for Ṣadr al-sharī‘ah in the *ḥāshiyahs* on *al-Talwīḥ*. It should be underlined here that in the *ḥāshiyahs* on *al-Talwīḥ* written in the sixteenth century, the comments and criticisms by al-Taftāzānī were less frequently included in the agenda compared to the previous century, and Ṣadr al-sharī‘ah’s work on *uṣūl al-fiqh* began to be discussed more often and directly.

This study will focus on the names whom Surūrī Chalabī has dealt with in his *ḥāshiyah* and how he established contact with these names, and thus it will be possible to follow the traces of the abovementioned changes on this *ḥāshiyah*.

3. The Interlocutors of Surūrī Chalabī in His Ḥāshiyah and the Character of His Work

The writing of this work, the only copy of which is registered under number 648 in Murat Molla Library, was completed in the town of Ladik on 15 Rajab 957/1550, according to the release record of this copy.⁵⁷ No information was provided regarding the province to which Ladik belonged. However, taking into account that Surūrī Chalabī was appointed as the tutor of the prince in Amasya in 955/1548, it is highly likely that he completed this work in 957/1550 in Ladik, which

⁵⁶ Kamālpashazādah and Abū l-Su‘ūd addressed these two names in their *ḥāshiyahs* on *al-Talwīḥ* and directly discussed their arguments and interpretations in their works. See Shams al-Dīn Aḥmad ibn Sulaymān Kamālpashazādah, *Ḥāshiyah ‘alā l-Talwīḥ* (Istanbul: Süleymaniye Library, Halet Efendi, MS 163), fols. 85a, 89a; Abū l-Su‘ūd Efendī, *Ḥāshiyah ‘alā l-Talwīḥ* (Istanbul: Süleymaniye Library, Bağdatlı Vehbi, MS 2035), fols. 37b-38a.

⁵⁷ Muṣliḥ al-Dīn Muṣṭafá Surūrī Chalabī, *Ḥāshiyat al-Talwīḥ* (Istanbul: Murat Molla Library, MS 648), fol. 76a.

is located in the region of Amasya and which is today a district of Samsun, instead of the town, which is located in the Sarayönü district of Konya and which was formerly called Ladik. The fact that Surūrī completed his commentary on *Gulistān*, which was dedicated to the prince, in Amasya a year later in 958/1551 supports this view.⁵⁸ Additionally, Shāhzādah Muṣṭafā's brother Bāyazīd was commissioned as the Governor of Sanjaq of Karaman in 953/1546,⁵⁹ which highly weakens the possibility that Shāhzādah Muṣṭafā was in Karaman at the time when the *ḥāshiyah* was written.

Surūrī Chalabī was working as the tutor of Shāhzādah Muṣṭafā when he completed the work. Surūrī's dedication of his work to Shāhzādah Muṣṭafā with the phrase *al-sultān ibn al-sultān* in the introduction section is a significant detail in terms of pointing out that he regarded Muṣṭafā as the true successor to the throne.⁶⁰ Moreover, in the introduction of the *ḥāshiyah*, Surūrī Chalabī briefly mentions the reason why the work was authored and explains that when he analyzed Ṣadr al-sharī'ah's *al-Tawdīḥ* together with al-Taftāzānī's *al-Talwīḥ*, his preferences became apparent. He gathered his ideas together so that he could write his *ḥāshiyah*.⁶¹

The author wrote his *ḥāshiyah* on the whole of *al-Talwīḥ*, not on a particular part of it. On the other hand, he did not analyze every issue in his commentary but only focused on specific issues he had chosen. The definition of *uṣūl al-fiqh*, the Qur'ān (*al-Kitāb*), linguistic and interpretation (*alfāz*), the good and bad (*al-ḥusn wa-l-qubḥ*), consensus (*ijmā'*), analogy (*qiyās*), conflict of indicators and determination between them (*al-mu'aradab wa-l-tarjīḥ*) and exertion (*ijtihād*) are the issues that Surūrī discussed in his *Ḥāshiyah*. In this regard, although the work covers almost all the main topics of *al-Talwīḥ*, it is a relatively compact *ḥāshiyah* with a total of seventy-seven pages.

⁵⁸ Güleç, "Gelibolulu Muslihuddin Sürūrī," 217.

⁵⁹ Şerafettin Turan, "Bayezid, Şehzade," in *Türkiye Diyanet Vakfı İslâm Ansiklopedisi (DİA)*, V, 230.

⁶⁰ Surūrī Chalabī, *Ḥāshiyat al-Talwīḥ*, 1b. Surūrī's dedication of his rhetorical work *Baḥr al-ma'ārif* to the prince whom he referred to as "Sultān Muṣṭafā" and his resemblance of him to the Four Caliphs strengthens this view. See Şafak, "Sürūrī'nin Bahrü'l-Ma'ārif'i ve Enisü'l-Uşşāk ile Mukayesesi," 2.

⁶¹ Surūrī Chalabī, *Ḥāshiyat al-Talwīḥ*, 1b.

Even though the *Hāshiyah* of Surūrī Chalabī was written on *al-Talwīḥ*, the author not only discusses al-Taftāzānī's statements, but also returns to Şadr al-sharī'ah's statements from time to time and discusses them. Surūrī most frequently evaluates the statements of Ḥasan Chalabī al-Fanārī, a member of the Ottoman scholarly circle of the previous century and one of the *ḥāshiyah* writers who wrote a *ḥāshiyah* on *al-Talwīḥ*. Moreover, while he considers the criticisms by his contemporary Kamālpashazādah, who deceased before him, in some of the issues where he handles the statements of Şadr al-sharī'ah, in the section where he analyses the words of al-Taftāzānī and Ḥasan Chalabī, he occasionally discusses the criticisms of Qāḍī Burhān al-Dīn, one of the first *ḥāshiyah* writers of *al-Talwīḥ* in *Bilād al-Rūm*. In this respect, it can be seen that Surūrī confronted with a wide range of literature produced by and through *al-Talwīḥ* over a very long time and based his evaluations on this accumulated knowledge.

The person whom Surūrī Chalabī dealt with the most in his *ḥāshiyah* is Ḥasan Chalabī al-Fanārī, one of the *ḥāshiyah* writers of the previous century. Surūrī Chalabī, who cites the interpretations or arguments of Ḥasan Chalabī by using the expressions *qāla l-muḥasbsbī* or *qāla l-muḥasbsbī al-Rūmī*, criticizes him at almost every opportunity and attempts to respond to his criticisms against al-Taftāzānī. Considering that Ḥasan Chalabī, in his *Hāshiyah*, compiles and narrates the interpretations and arguments put forward in the *ḥāshiyahs* of *al-Talwīḥ* written before him on many issues and makes original evaluations on these issues,⁶² it would become even more meaningful for Surūrī Chalabī to deal with him the most in his *ḥāshiyah* and to reserve a special place for his statements. As a matter of fact, Surūrī Chalabī wishes to demonstrate his own intellectual competence and to create a place for himself in this tradition by criticizing one of the most important authorities of the *ḥāshiyah* tradition through the issues on which he had frequently engaged in the comments and criticisms by Ḥasan Chalabī.

Al-Taftāzānī is the author whose statements are most frequently quoted by Surūrī Chalabī after Ḥasan Chalabī. Surūrī Chalabī, who deals with al-Taftāzānī's comments and critiques directed at Şadr al-

⁶² Çelik, "XV. yy. Osmanlı Düşüncesinde Telvîh Hâşiyeleri," 80-81.

sharī'ah in *al-Talwīḥ* with the expression *qawluhū*, tries to explain and justify his statements at times⁶³ and criticizes them at other times.⁶⁴ Although Surūrī generally defended al-Taftāzānī's interpretations and arguments against Ḥasan Chalabī's criticisms, it has significance in terms of indicating his critical approach that he also raised objections to al-Taftāzānī in many issues in which he directly discussed his statements.

As stated above, while discussing the interpretations and arguments of al-Taftāzānī and Ḥasan Chalabī, Surūrī Chalabī also occasionally discusses Qāḍī Burhān al-Dīn's critiques, one of the early *ḥāshiyah* writers of *al-Talwīḥ*, directed against al-Taftāzānī. In these sections, Surūrī sometimes defends Qāḍī's arguments, whom he refers to as *ṣāḥib al-Tarjīḥ*, against the criticisms raised by Ḥasan Chalabī,⁶⁵ and sometimes quotes them as a direct critique of al-Taftāzānī without posing any objection to it.⁶⁶ This attitude of him indicates that Surūrī Chalabī considered Qāḍī Burhān al-Dīn's criticisms of al-Taftāzānī to be justified.

Although it is rare compared to Ḥasan Chalabī and al-Taftāzānī, Surūrī Chalabī deals with the statements of Ṣadr al-sharī'ah in *al-Tawḍīḥ*, from whom he makes quotations in several places with the expression *qāla l-muṣannif*. In these sections, he sometimes criticizes the author of *al-Tawḍīḥ*⁶⁷ and sometimes defends him against the criticisms made by the scholars who can be considered his contemporaries. Within this context, he responds to the criticisms leveled against Ṣadr al-sharī'ah and the amendments suggested in *Taghyīr al-Tanqīḥ* by Kamālpashazādah, from whom he quotes anonymously with the expression *qāla* or *qāla ba'd al-muta'akḥḥirīn* (one of the later scholars).⁶⁸ The similarity between this manner of addressing of Surūrī Chalabī and the manner of the quotation made earlier by Chiwīzādah, for which he had narrowly escaped from punishment, is a remarkable point. To elaborate on the

⁶³ Surūrī Chalabī, *Ḥāshiyat al-Talwīḥ*, 4a, 7b, 9a, 11a, 14a, 19b, 23a etc.

⁶⁴ *Ibid.*, 2a, 6b, 7a, 11b, 12b, 17a, 22a, 23b etc.

⁶⁵ *Ibid.*, 44a.

⁶⁶ *Ibid.*, 47b.

⁶⁷ *Ibid.*, 9b, 15a, 18b, 21a, 59a etc.

⁶⁸ Kamālpashazādah, *Taghyīr al-Tanqīḥ* (Istanbul: Köprülü Library, Mehmed Asım Bey, MS 53), fols. 4b, 6b, 7a (*minbuwāt* record); Surūrī Chalabī, *Ḥāshiyat al-Talwīḥ*, 14a, 14b-15a, 16b.

latter matter, in 935/1529, when Chiwizādah applied for the position of *mudarris* of *Saḥn madrasahs*, he was subjected to examinations in *al-Talwīḥ*, *al-Mawāqif*, and *al-Miftāḥ* together with three other candidates. When he quoted Kamālpashazādah's opinion in *Taghyīr al-Tanqīḥ* with the expression *qīla* in the analysis of *al-Talwīḥ*, he was spared from being penalized by Sultan Suleiman only by the intervention of the viziers.⁶⁹ The fact that Surūrī, in his *ḥāshiyahs* on *al-Talwīḥ* and *al-Ināyah*, reports the views or arguments of the deceased Sheikh al-islām Kamālpashazādah by using the terms of *tamrīḍ* (weakness)⁷⁰ or expressions that can be perceived as contempt without naming him suggests that he had a severe critical position towards this scholar.

It is noteworthy that Surūrī Chalabī criticizes al-Taftāzānī and Şadr al-sharī‘ah from time to time while finding the criticisms of al-Taftāzānī by Ḥasan Chalabī and that of Şadr al-sharī‘ah by Kamālpashazādah groundless. Beyond developing an attitude based on specific opinions or choosing an intellectual side over the other, this can be explained with his “argument-centered” writing style. Surūrī Chalabī, who seems to have preserved the “argument-centered” style of writing⁷¹ that had dominated the *ḥāshiyahs* of the previous century and often refrained from evaluating the views, employed expressions that would directly embody this attitude. For example, Ḥasan Chalabī, while evaluating an argument brought by al-Taftāzānī, mentioned that the opinion of the opponent was not appropriate for this argument. In contrast, Surūrī Chalabī argued that in a discussion held according to the principles of inquiry and dialectics (*ādāb al-baḥth*), the view of the critic (*sā‘il*) is insignificant and that the argument adduced by the critic in contradiction to his own view brings no harm to the argument.⁷² In other words, the one who criticizes an argument may utilize another argument incompatible with his own view to demonstrate the weakness of the argument of the opponent.

⁶⁹ ‘Atā‘ī, *Ḥadā‘iq al-ḥaqā‘iq*, I, 526.

⁷⁰ Through expressions of *tamrīḍ* such as *qīla*, the weakness of the view or argument is pointed out.

⁷¹ Çelik, “XV. yy. Osmanlı Düşüncesinde Telvîh Hâşiyeleri,” 94-95.

⁷² Surūrī Chalabī, *Ḥāshiyat al-Talwīḥ*, 43a.

Surūrī Chalabī accuses Ḥasan Chalabī of putting forward his argument in a way that is contrary to the principles of *ādāb al-baḥṭh*, which constituted an important part of the argumentation technique of the classical era, especially when he addresses some arguments brought forward by Ḥasan Chalabī to criticize al-Taftāzānī.⁷³ It is possible to regard this attitude as an extension of the aforementioned “argument-centered” approach. A substantial part of Surūrī Chalabī’s criticisms in his *Ḥāshiyah*, which mostly address the interpretations and arguments of Ḥasan Chalabī, reveals the inconsistency in these arguments. In these matters, after quoting the statements of Ḥasan Chalabī, he criticizes them for bearing inconsistencies.⁷⁴ In other cases, Surūrī appears to draw attention to the discrepancies in al-Taftāzānī’s statements.⁷⁵

A substantial part of Surūrī Chalabī’s criticisms concerns the interpretations of his interlocutors. In his criticism of the interpretation in his *ḥāshiyah*, Surūrī Chalabī demonstrates that the interpretations of al-Taftāzānī and Ḥasan Chalabī do not correspond to the meanings implied in the statements.⁷⁶ In addition, he also occasionally claims that the explanation in the interpretations does not reflect the first meaning directly understood from the expression⁷⁷ or that the explanations provided are strained.⁷⁸ Sometimes Surūrī directly reveals the original meaning of the specific statements in the text that, he thinks, the authors –Ṣadr al-sharī‘ah or al-Taftāzānī– intended to mean and consequently indicates that those statements have been misunderstood by their commentators and critics. After detecting the valid meaning of the relevant text and misinterpretations, Surūrī proposes his alternative interpretation.⁷⁹

⁷³ Surūrī indicates that the arguments are brought contrary to the technique of argumentation through statements such as: “It is not appropriate for the experts to say something against the corroboration (*sanad*),” “His duty is to prove the objected (*mamnū‘*) premise of argument, not to supply an alternative argument (*mu‘āraḍah*),” and “[t]he argument offered by the *ḥāshiyah* writer has no value in *ādāb al-baḥṭh*.” See *Ibid.*, 13a-13b, 16a, 18a, 21b, 24a. For explanation of the *ādāb al-baḥṭh* terms, see El-Rouayheb, *Islamic Intellectual History in the Seventeenth Century*, 72-74.

⁷⁴ Surūrī Chalabī, *Ḥāshiyat al-Talwīḥ*, 3a, 7b, 10a.

⁷⁵ *Ibid.*, 26b.

⁷⁶ *Ibid.*, 4b, 17a, 20b.

⁷⁷ *Ibid.*, 7b, 9a, 21a.

⁷⁸ *Ibid.*, 21a.

⁷⁹ *Ibid.*, 7a-7b, 12a, 39a.

However, the expressions criticized by Surūrī Chalabī for inappropriateness do not only consist of interpretations. Furthermore, while occasionally discussing al-Taftāzānī's criticisms of Şadr al-sharī'ah or Ḥasan Chalabī's criticisms of al-Taftāzānī, Surūrī highlights that these criticisms are, in fact, not compatible with the criticized arguments themselves.⁸⁰

As mentioned above, although Surūrī Chalabī in many places defended the interpretations and arguments of al-Taftāzānī against the criticisms raised by Ḥasan Chalabī and those of Şadr al-sharī'ah against the objections raised by al-Taftāzānī and Kamālpashazādah, he also did not hesitate to direct his criticisms against Şadr al-sharī'ah and al-Taftāzānī now and then. When presenting his criticisms in several places, Surūrī shared his opinion on how to articulate the relevant phrase in a way that avoids misinterpretations and errors by providing his rectifications of the relevant parts of the text with the phrase; “[i]t would have been more appropriate for him to say (*al-awlā an yaqūl*).”⁸¹ This way of criticism is remarkably reminiscent of the rectification style of Kamālpashazādah in his *Taghyīr al-Tanqīh*.⁸²

In his *Hāshiyah*, Surūrī Chalabī focused on the arguments underlying the views of his interlocutors rather than their views themselves. Nevertheless, he rarely declared his own views as well. In “the dependence of *fiqh* on *uṣūl*,” which will be discussed under the next heading, he also presented his own approach to the subject while criticizing it.

Along with the abovementioned scholars, Surūrī Chalabī also refers in his *Hāshiyah* to the works of the leading authoritative scholars such as Sayf al-Dīn al-Āmidī (d. 631/1233), Quṭb al-Dīn al-Shīrāzī (d. 710/1311), Abū Yā'qūb al-Sakkākī (d. 626/1229), al-Khaṭīb al-Qazwīnī (d. 739/1338), al-Sayyid al-Sharīf al-Jurjānī, and Akmal al-Dīn al-Bābartī (d. 786/1384).⁸³

⁸⁰ *Ibid.*, 20a, 18a.

⁸¹ *Ibid.*, 18b, 21a, 23b, 59a, 73a, 74a, 75b.

⁸² For more information about the content and style of Kamālpashazādah's criticism of Şadr al-sharī'ah in *Taghyīr al-Tanqīh*, see İlyas Yıldırım, “Kemâlpaşazâde'nin Tenkîh Eleştirisi,” in *Osmanlı'da İlm-i Fıkıh: Âlimler, Eserler, Medreseler*, ed. Mürteza Bedir, Necmettin Kızılkaya, and Hüseyin Sağlam (Istanbul: İSAR Yayınları, 2017), 54-79.

⁸³ Surūrī Chalabī, *Hāshiyat al-Talwīh*, 10b, 15b, 18a, 22b, 24b, 26a.

Compared to the *ḥāshiyah* writers of the previous century, Surūrī Chalabī appears to maintain “the argument-centered” knowledge production that was dominant in the tradition inherited by him. In this style of *ḥāshiyah* writing, the emphasis was on the arguments adduced to support the views rather than the views themselves. The issues examined in this literature include whether the arguments or interpretations are consistent within themselves, whether an argument brought for criticism or to respond to a criticism is coherent with the argument being criticized, and whether the given argumentation complies with the rules of *ādāb al-baḥṭh*. In terms of these specified qualities, the *Ḥāshiyah* of Surūrī Chalabī characteristically displays continuity with the genre of *ḥāshiyah* of the previous century.

Moreover, with rare exceptions, Ṣadr al-sharī‘ah, in the fifteenth century-*ḥāshiyah* literature, was mostly read through his commentator al-Taftāzānī’s interpretations and criticisms. Consequently, al-Taftāzānī’s statements directly became the focal point of the discussions. As for the *Ḥāshiyah* of Surūrī Chalabī, on the other hand, the interlocutors are diversified in this respect. Surūrī dealt with Ṣadr al-sharī‘ah’s own text and statements more frequently and directly compared to the literature of the previous century, and also, just like his contemporary Kamālpashazādah, preferred to directly discuss arguments of Ḥasan Chalabī, one of the *ḥāshiyah* writers of the previous century. Placing Ḥasan Chalabī’s interpretations and arguments at the center of his *Ḥāshiyah*, Surūrī has discussed the body of knowledge accumulated in the *ḥāshiyah* tradition on *al-Talwīḥ* through the criticisms of a scholar who belongs to the Ottoman scholarly bureaucracy within which he, too, was raised. It is a significant development that in the sixteenth century, the agenda of the *ḥāshiyahs* written by the Ottoman bureaucrat-scholars was primarily and directly determined by the knowledge produced in their scholarly circles. In contrast, the interpretations and arguments of al-Taftāzānī used to play a determining role in the *ḥāshiyahs* of the fifteenth century.

4. Some Issues Discussed in *Hāshiyah*

4.1. The Dependence of *Fiqh* on *Uşûl*

The introductory chapters of *uşûl al-fiqh* works discuss the position of *fiqh* in relation to other disciplines and analyses the connection between *uşûl al-fiqh* and other fields as one of the significant part of the discussion on the postulates (*mabādi*⁸⁴) of *uşûl al-fiqh*. The nature of the relationship between *fiqh* and *uşûl al-fiqh* has also been a central subject matter featured in this context.⁸⁴ Şadr al-sharī‘ah, who deals with this issue from time to time, begins the introduction of his work with praise, stating that faith, which constitutes the roots of the praises ascending to God, is nourished from the runnels of *sharī‘ah*, while the deeds that constitute the branches of praise are directed towards God.⁸⁵ Thereby, he refers to the discipline of theology, on which the faith is built, and its branches (*furū*⁸⁶), the discipline of *fiqh*, on which the deeds are based.⁸⁶ Subsequently, in justifying why God is praised, he asserts that God “established the foundations (*uşûl*) of the *sharī‘ah* (*ja‘ala mumabhadāt al-mabānī*) and thinned the edges of the branches of the *sharī‘ah* (*raqīqat al-ḥawāshī*).”⁸⁷ In other words, Şadr al-sharī‘ah argues that God determined the principles of *uşûl al-fiqh* and also arranged the boundaries of the branches of *fiqh* (*furū‘ al-fiqh*).

While commenting on this section, al-Taftāzānī argues that the term *sharī‘ah* in the phrase *uşûl al-sharī‘ah* encompasses the issues of all disciplines that are proven through reported indicants (*al-adillah al-sam‘iyyah*) in addition to *fiqh*. In contrast, the *uşûl* of the *sharī‘ah* refers to general indicants (*al-adillah al-kulliyah*) on which the *sharī‘ah* is based. Accordingly, the expression “the *furū*⁸⁶ of the *sharī‘ah*” i.e., *furū‘ al-fiqh*, refers to the detailed judgements explained in the discipline of *fiqh*. “The meanings (*ma‘ānī*) of the

⁸⁴ A. Cüneyd Köksal, *Fıkıh Usulünün Mahiyeti ve Gayesi* (Istanbul: Türkiye Diyanet Vakfı İSAM Yayınları, 2008), 115-117.

⁸⁵ Şadr al-sharī‘ah al-thānī ‘Ubayd Allāh ibn Mas‘ūd ibn Tāj al-sharī‘ah ‘Umar, *al-Tawdīḥ sharḥ al-Tanqīḥ*, along with *al-Talwīḥ ilā kashf ḥaqā’iq al-Tanqīḥ*, ed. Muḥammad ‘Adnān Darwīsh (Beirut: Dār al-Arqam, 1998), I, 21.

⁸⁶ Sa‘d al-Dīn Mas‘ūd ibn ‘Umar al-Taftāzānī, *al-Talwīḥ ilā kashf ḥaqā’iq al-Tanqīḥ*, ed. Muḥammad ‘Adnān Darwīsh (Beirut: Dār al-Arqam, 1998), I, 22.

⁸⁷ Şadr al-sharī‘ah, *al-Tawdīḥ*, I, 22.

furū' of the *sharī'ah*," on the other hand, refers to the particular causes (*'ilal*) in each *fiqh* issue.⁸⁸

According to al-Taftāzānī's explanation, the foundations (*mabānī*) of *uṣūl* signify the theology (*'ilm al-dhāt wa-l-ṣifāt wa-l-nubuwwāt*) on which the discipline of *uṣūl* is built.⁸⁹ In other words, al-Taftāzānī asserts that *uṣūl al-fiqh* is grounded on theology (*kalām*), while *furū' al-fiqh* is based on this *uṣūl*. Given al-Taftāzānī's interpretation, Ṣadr al-sharī'ah, with this statement, emphasized that *uṣūl al-fiqh* is above *fiqh* and below *kalām* in terms of its rank. This means that the knowledge of the particular (*juz'ī*) judgments derived from particular (*juz'ī*) indicants depends on the knowledge of the position of general (*kullī*) indicants, which is the subject of *uṣūl al-fiqh*. In this regard, the knowledge of general indicants enables the *mujtabid* to achieve the legal judgments (*al-aḥkām al-shar'iyyah*) in *fiqh*. Furthermore, the knowledge of the general indicants also depends on the knowledge of God and His attributes, the truthfulness of His messenger, and the confirmation of His messenger's miracles. The discipline that encompasses all these issues and analyses the attributes of God, prophethood, imamate, the afterlife (*ma'ād*), and other related matters according to the principles of Islam is *kalām*.⁹⁰

Ḥasan Chalabī al-Fanārī considers the interpretation of al-Taftāzānī that "*uṣūl al-fiqh* is above *fiqh* and below theology in terms of its rank" inappropriate and criticizes this interpretation. According to this criticism, which seems to belong to Qāḍī Burhān al-Dīn,⁹¹ the dependence (*tawaqquf*) of one thing's knowledge on the other does not necessarily mean that the thing on which another thing depends is superior to the other in terms of dignity. For instance, the fact that the knowledge of the Qur'ān and Sunnah in *uṣūl al-fiqh* depends on Arabic does not require Arabic to be superior to *uṣūl al-fiqh* in terms of dignity. Ḥasan Chalabī al-Fanārī claims that this criticism can be responded to and expresses that in al-Taftāzānī's statement, "the dependence of one thing's knowledge on the other" means the dependence of the subsidiary on the primary. Moreover, this

⁸⁸ Al-Taftāzānī, *al-Talwīḥ*, I, 22.

⁸⁹ *Ibid.*, I, 22.

⁹⁰ *Ibid.*, I, 22.

⁹¹ Qāḍī Burhān al-Dīn Aḥmad ibn Shams al-Dīn Muḥammad, *Tarjīḥ al-Tawḍīḥ*, in *Kaḍī Burbāneddīn'in Tercību't-Tavzīḥ İsimli Eseri: Tabkik ve Değerlendirme*, ed. Emine Nurefşan Dinç (Istanbul: Marmara University, 2009).

expression does not refer to the dependence of a discipline on the instrumental discipline (*‘ilm al-ālat*) it needs or another discipline that is indispensable for it.⁹²

After stating that this answer is also problematic, Ḥasan Chalabī clarifies the dependence of *fiqh* on *uṣūl al-fiqh* with the need of a discipline to have an instrumental discipline. Therefore, according to him, it is not a misconception that *fiqh* is superior (*ashraf*) to *uṣūl al-fiqh*. In fact, if *fiqh* did not exist, *uṣūl al-fiqh* would not have evolved as a discipline. Furthermore, this discipline is called *uṣūl al-fiqh* because it is dignified with the *fiqh* contained in it. The mention of *uṣūl al-fiqh* as the primary and *fiqh* as the subsidiary does not eradicate this fact. At this point, Ḥasan Chalabī argues that the dependence of *uṣūl al-fiqh* and other *shar‘ī* disciplines on theology is not in the sense that theology renders service to these disciplines, but in the sense that it is a source (*ifāḍab*) and a guide (*ri’āsab*) for them. Thereby, theology is more dignified than all other *shar‘ī* disciplines.⁹³ As seen, although Ḥasan Chalabī acknowledges the dependence of *fiqh* on *uṣūl al-fiqh*, he does not interpret the nature of this dependence as a superiority in terms of dignity; but rather, he describes this dependence in terms of the need for instrumental discipline. Moreover, Ḥasan Chalabī not only considers *uṣūl al-fiqh* as an instrumental discipline for *fiqh* in this sense but also considers it subordinate to *fiqh* in terms of dignity.

Surūrī Chalabī criticizes this approach of Ḥasan Chalabī and argues that the dependence of *fiqh* on *uṣūl al-fiqh* does not merely consist of the need for service or instrumental discipline but that *fiqh* is dependent on *uṣūl al-fiqh* by means of being its source (*ifāḍab*). In his opinion, *fiqh* would not have come into existence if it were not for *uṣūl al-fiqh*, just as in the relation of a son to his father. Surūrī, who illustrates the need of a discipline for an instrumental discipline with the dependence of exegesis on the Arabic language, argues that the dependence of *uṣūl al-fiqh* on *fiqh* is based on a completely different reason.⁹⁴

⁹² Ḥasan Chalabī al-Fanārī, *Hāshiyah ‘alā l-Talwīḥ* (Cairo: al-Maṭba‘ah al-Khayriyyah, 1322 AH), I, 44-45.

⁹³ *Ibid.*

⁹⁴ Surūrī Chalabī, *Hāshiyat al-Talwīḥ*, 8a.

4.2. Criticism of Ash‘arī *Uṣūlīs*’ Definition of Judgement

One of the most interesting issues that Ṣadr al-sharī‘ah brings up in *al-Tawdīḥ* is the definition of judgment (*ḥukm*) which, according to him, constitutes a distinct point of divergence between the Ḥanafī and the Ash‘arī *uṣūl* tradition. After quoting the Shāfi‘ī-Ash‘arī *uṣūlīs*’ definition of *fiqh* as “[t]he knowledge of the *shar‘ī* practical judgments (*alḥkām*) derived from particular indicants,” Ṣadr al-sharī‘ah deals with the concept of *ḥukm* in this definition. By the definition attributed to the Ash‘arī *uṣūlīs*, *ḥukm* is “the address (*kbiṭāb*) of God in the form of necessitating (*iqtidā’*) or making optional (*takhyīr*), concerning the deeds of the responsible person (*mukallaḥ*).” On the other hand, some Ash‘arī *uṣūlīs* have added the phrase “by means of *waḍ‘ī*” to the expression “the address of God in the form of *iqtidā’* or *takhyīr*” in this definition so that it would also include the nonnormative (*waḍ‘ī*) judgments⁹⁵ such as occasion (*sabab*) and condition (*sharṭ*). Accordingly, while the addressing in the form of *iqtidā’* and *takhyīr*, regarding the deed of *mukallaḥ* is normative (*taklīfī*) judgment, the addressing that a situation is an occasion for or condition of such *taklīfī* judgment is a *waḍ‘ī* judgment.⁹⁶

Explaining these statements, al-Taftāzānī reveals that the addition *waḍ‘* to definition of *ḥukm*, which Ṣadr al-sharī‘ah attributes to some Ash‘arī *uṣūlīs*, was made in the criticisms of Mu‘tazilah. Then some Ash‘arī *uṣūlīs* responded to this objection, while others paid attention to it. Within this framework, according to one of the criticisms of the Mu‘tazilī *uṣūlīs* against the Ash‘arī *uṣūlīs* the definition “the address of God in the form of necessitating or making optional, concerning the deeds of the responsible person,” does not incorporate the *waḍ‘ī*

⁹⁵ For the explanation of *waḍ‘ī* judgement as “nonnormative” and *taklīfī* judgement as “normative,” see Bernard G. Weiss, *The Search for God’s Law: Islamic Jurisprudence in the Writings of Sayf al-Dīn al-Āmidī* (Salt Lake City: The University of Utah Press, 1992), 94, 95, 101, 105.

⁹⁶ Based on this definition, God’s necessitating an action is that he requests the obligated human to either perform or abandon it. The absolute demand of God for an action to be performed by His subject renders it obligatory (*ijāb*), whereas His indefinite demand for it is a call for an action that God appreciates (*nadb*). If God demands His subject to abandon an act in a definite way, it is *ḥarām* (*taḥrīm*), while if God demands it in an indefinite way, it is *makrūh* (*karābah*). For the definition and explanation of judgement by the Ash‘arī *uṣūlīs*, see Ṣadr al-sharī‘ah, *al-Tawdīḥ*, I, 37-8.

judgments, such as the sunset being an occasion (*sabab*) of the prayer, the cleanliness (*ṭahārah*) being a condition (*sharṭ*) for the prayer, and the impurity (*najāsah*) being an obstacle (*māniʿ*) to the prayer.

According to the statement of al-Taftāzānī, some Ashʿarī *uṣūlīs* have paid attention to this criticism and added the phrase “by means of *wadʿ*” to the expression “the address of God in the form of *iqtidāʿ* or *takhyīr*” in this definition. Thus, the definition is amended in such a way that it includes the *wadʿī* judgments. Nonetheless, some of the Ashʿarī *uṣūlīs* have responded to this argument and objected to the premise mentioned in Muʿtazilah criticism that the address of *wadʿ* (*kbīṭāb al-wadʿ*) is a judgment and thus have not labeled this address as a judgment. According to these *uṣūlīs*, the fact that other *uṣūlīs* refer to the address of *wadʿ* as a judgment is a term, and there is no discussion of the terms. Furthermore, even if the premise that the address of *wadʿ* is a judgment were to be admitted, the claim that this address remains outside the definition of judgment would not be accepted. Because, according to the aforementioned Ashʿarī *uṣūlīs*, the meaning implied by “*iqtidāʿ* or *takhyīr*” in the definition contains both explicit (*ṣarīḥ*) and implicit (*ḍimnī*) meanings. Moreover, the address of *wadʿ* is the implicit meaning of this condition. In other words, the words “*iqtidāʿ* or *takhyīr*” in the definition explicitly refer to propositional judgments and implicitly to *wadʿī* judgments. Hence, the fact that the setting of the sun is an occasion of obligation (*wujūb*) of the prayer means that prayer is obligatory (*wājib*) if this occasion occurs. On the other hand, the fact that cleanliness is a condition for prayer means that this condition is mandatory for prayer and that prayer is forbidden (*ḥarām*) if this condition is failed to be fulfilled. Similarly, being unclean is an obstacle to prayer, which means that prayer is forbidden with the state of uncleanness and that it is obligatory to eliminate this state of uncleanness if prayer is to be performed.⁹⁷

Ḥasan Chalabī al-Fanārī argues that this answer, which al-Taftāzānī quotes from Ashʿarī *uṣūlīs*, is problematic. Accordingly, he raises a criticism against the statement that the meaning meant by *iqtidāʿ* or *takhyīr* in the definition of *ḥukm* includes explicit and

⁹⁷ al-Taftāzānī, *al-Talwīḥ*, I, 39.

implicit meanings. Based on this, the understanding of the meaning of the condition of *iqtidā'* and *takhyīr* in this definition is entirely irrelevant to the will of the one who utters this expression. In other words, the assertion that the meaning meant by this condition by the Ash'arī *uṣūlīs* encompasses the explicit and implicit meanings of the expressions presupposes that the meaning depends on the will of the one who utters this expression. Whereas the understanding of the meaning of these expressions in the definition does not depend on the will of the one who utters this expression. Thus, for example, the claim that the implicit *iqtidā'* is understood or not understood in the fact of matter (*fī naḥs al-amr*) from the expression *iqtidā'* is objected.⁹⁸

For Surūrī Chalabī, who analyses the statements of al-Taftāzānī and the criticism of Ḥasan Chalabī through the *ādāb al-baḥth*, which determined the theoretical language of the post-classical era, the answer that al-Taftāzānī attributes to the Ash'arī *uṣūlīs* is an objection with corroboration (*man' ma'a l-sanad*). Therefore, the opponent is required to prove the objected premise. On the contrary, the criticism brought by Ḥasan Chalabī is not aimed at demonstrating the premise to which al-Taftāzānī objected but at corroborating it. However, the criticism leveled against the corroboration imposed by the opponent is unacceptable according to experts in the rational disciplines (*ahl al-naẓar*).⁹⁹ As it can be clearly seen, after identifying the method by which al-Taftāzānī and Ḥasan Chalabī presented their arguments in *ādāb al-baḥth*, Surūrī Chalabī asserts that although what Ḥasan Chalabī should have done was to prove the premise which al-Taftāzānī objected, he was dealing with the corroboration adduced for the objection.¹⁰⁰ Thus, he subjects the objection of Ḥasan Chalabī to criticism on the grounds that it fails to adhere to the argumentation technique.

4.3. The Subject of Uṣūl al-fiqh Consisting of Indicants and Judgements

In the tradition of *uṣūl al-fiqh*, the subject matter (*mawḍū'*) of this discipline is a debated topic in the literature. Accordingly, while most

⁹⁸ Ḥasan Chalabī, *Ḥāshiyah 'alā l-Talwīḥ*, I, 87-88.

⁹⁹ Surūrī Chalabī, *Ḥāshiyat al-Talwīḥ*, 13a-13b.

¹⁰⁰ For other criticisms that Surūrī levelled against Ḥasan Chalabī on the same grounds see *ibid.*, 12a, 16a.

of the *uṣūlīs* argued that the subject matter of *uṣūl al-fiqh* consists only of indicants (*al-adillab*), *uṣūlīs* such as al-Ghazālī argued that the subject matter of this discipline consists of judgments (*al-aḥkām*).¹⁰¹ Şadr al-sharī‘ah distinguished himself from both of these groups and, after stating in his *al-Tawdīḥ* that the subject matter of *uṣūl al-fiqh* is *shar‘ī* indicants and judgments, he demonstrated how these two constitute the subject matter of *uṣūl al-fiqh* through the phrases in *al-Tanqīḥ* and the explanations he provided for them. Based on this, the states of *shar‘ī* indicants and the concepts concerning these indicants are analyzed within the scope of *uṣūl al-fiqh*. Moreover, in addition to the indicants, the states (i.e., essential attributes) of the judgments demonstrated by the indicants and the concepts concerning these judgments are analyzed. The concepts that are concerning judgments are legal judgment (*ḥukm*), the lawgiver (*ḥākim*), the act subject to the judgment (*maḥkūm bih*), and the person under obligation (*maḥkūm ‘alayh*).¹⁰²

Şadr al-sharī‘ah argues that it is highly likely that the expression “analyzing legal judgments in addition to the indicants in *uṣūl al-fiqh*” refers to two meanings. According to the first approach, which regards indicants and judgments as the subject matter of *uṣūl al-fiqh*, the issues of judgement in a work of *uṣūl al-fiqh* can be dealt with after the indicants. On the other hand, according to the second approach, which assigns the subject matter of *uṣūl al-fiqh* only to judgments, judgments can only be analyzed in the context of the issues that are introduced as an addition to *uṣūl al-fiqh*. Accordingly, *uṣūl al-fiqh* as a phrase means the indicants of *fiqh*, and as a discipline, it denotes the knowledge of the indicants in terms of proving the judgments. Hence, the issues arising from the judgment and related issues are excluded from the scope of this discipline, and their number is very few. Therefore, these issues are addressed in the works of *uṣūl al-fiqh* only as subordinate to and supplementary to the issues of *uṣūl al-fiqh*. Among these two explanations provided above, Şadr al-sharī‘ah has preferred the first approach, which

¹⁰¹ For the views and discussions regarding the subject matter of *uṣūl al-fiqh*, see Köksal, *Fıkıh Usulünün Mahiyeti ve Gayesi*, 97-104.

¹⁰² Şadr al-sharī‘ah, *al-Tawdīḥ*, I, 56-57.

acknowledges that the subject matter of *uṣūl al-fiqh* is indicants and judgments.¹⁰³

After stating that in *uṣūl al-fiqh*, in addition to the indicants, the judgments and essential attributes of the concepts concerning these judgments are also examined in his work *Taghyīr al-Tanqīḥ*, in which the statements of Ṣadr al-sharīʿah in *al-Tanqīḥ* and *al-Tawḍīḥ* are reconsidered, Kamālpashazādah –unlike Ṣadr al-sharīʿah– directly emphasizes that judgments are included in the subject matter of *uṣūl al-fiqh*, without mentioning two different possible explanations, and argues that this is the preferred view. Moreover, in the *minbuwāt* record, which is composed of the notes of the author in the work, Kamālpashazādah explains, with reference to Ṣadr al-sharīʿah, that the subject matter of *uṣūl al-fiqh* includes judgments, and then, argues that it is meaningless to speculate on the other possibility, which is the exclusion of matters of judgment from the discipline of *uṣūl al-fiqh*.¹⁰⁴ In other words, Kamālpashazādah criticizes Ṣadr al-sharīʿah since, after clearly expressing that the subject matter of *uṣūl al-fiqh* consists of indicants and judgments, he suggests that the phrase mentioned in the text can be explained in two different manners, and thus, regards the approach that excludes the matters of judgment from *uṣūl al-fiqh* as appropriate.

After citing the relevant statement of Ṣadr al-sharīʿah with the expression *qawl al-muṣannif*, Surūrī Chalabī reports the criticism of Kamālpashazādah, who died before him despite being his contemporary, with the expression *qāla baʿḍ al-mutaʾakkbirīn*. Then, he responds to this criticism. Based on this, as Kamālpashazādah also stated, Ṣadr al-sharīʿah referred to the view he had previously preferred. Nevertheless, the view of some *uṣūlīs*, such as al-Āmidī, reflects the second approach, which excludes the judgments from the subject matter of *uṣūl al-fiqh*. In this regard, the words of Ṣadr al-sharīʿah refer to two different views. Yet, according to Surūrī Chalabī, although they would occasionally mention only their preferred view, it is among the customs of the authors to write their statements in such a way that both the preferred and the opposite views are contained.¹⁰⁵

¹⁰³ *Ibid.*, I, 57-58.

¹⁰⁴ Kamālpashazādah, *Taghyīr al-Tanqīḥ*, 53, 5b.

¹⁰⁵ Surūrī Chalabī, *Ḥāshiyat al-Talwīḥ*, 15b.

As it is seen, Kamālpashazādah criticized the approach of Şadr al-sharī‘ah because Kamālpashazādah perceived the approach of Şadr al-sharī‘ah, who mentioned possible interpretations including the opposite view after stating his preferred view, as a kind of contradiction. Surūrī Chalabī, on the other hand, does not find this to be a contradiction and argues that the previous statements of Şadr al-sharī‘ah have been clear about the preferred view. However, like other authors of *uṣūl*, Şadr al-sharī‘ah provides a place for different approaches in his work.

Conclusion

Al-Taftazānī’s works in various disciplines, such as theology, *uṣūl al-fiqh*, exegesis, rhetoric, and logic, were received with a high level of interest in Ottoman scholarly circles as well as in many other scholarly circles. Although it is known that his works were read in this circle in the early fifteenth century, the widespread production of knowledge and the intensive writing of *ḥāshiyahs* on his works took place, particularly in the second half of this century. In this era, approximately twenty scholars wrote *ḥāshiyahs* on *al-Talwīḥ*, and topics such as the *al-muqaddimāt al-arba‘* in the work laid the groundwork for the emergence of top-level intellectual debates. Authors such as ‘Alī Qushjī, Mullā Khusraw, Khojazādah Muṣliḥ al-Dīn Muṣṭafá, Mullā Aḥmad al-Khayālī, Sāmsūnizādah Ḥasan, Ḥasan Chalabī al-Fanārī, Mullā ‘Alā’ al-Dīn ‘Arabī, Muṣliḥ al-Dīn Muṣṭafá al-Kastalī, Khaṭībzādah Muḥyī al-Dīn, Ḥājiḥasanzādah Muḥammad, and Mullā Luṭfī were among the prominent scholars of the Ottoman scholarly circle who wrote *ḥāshiyahs* in this era. The scholars of the period concentrated on arguments rather than views in the *ḥāshiyahs*. They discussed the arguments adduced to support the views regarding their defect and invalidity, inconsistency, inappropriateness, and violation of the argumentation technique.

The number of works on *al-Talwīḥ* in the Ottoman scholarly circle witnessed a relative decrease in the sixteenth century. However, based on this survey, Muḥammad al-Barda‘ī, Kamālpashazādah, Abū l-Su‘ūd Efendī, ‘Abd al-Şamad al-Ḥusaynī al-Ṭālishī, and Surūrī Chalabī maintained the practice of writing *ḥāshiyah* on *al-Talwīḥ* in this period. In addition to this decrease in literature, there was also a differentiation in terms of the interlocutors of the *ḥāshiyahs* written

on *al-Talwīḥ* in this century. The *Ḥāshiyah* of Surūrī Chalabī, who was the tutor of Shāhzādah Muṣṭafá, the son of Suleiman I, constitutes one of the works in which this differentiation emerges most clearly. Surūrī, who primarily dealt with the arguments and interpretations of Ḥasan Chalabī in his critical *ḥāshiyah*, criticized this author, who lived in the previous century, at every opportunity he had and attempted to respond to Ḥasan Chalabī's criticisms directed at al-Taftāzānī. On the other hand, Surūrī also criticized al-Taftāzānī at several points. Surūrī Chalabī's extensive engagement with the interpretations and criticisms of Ḥasan Chalabī, a significant figure of the *ḥāshiyah* tradition, over the debates he compiled and the original evaluations he introduced against him, can be interpreted as his endeavor to open a space for his *ḥāshiyah* in the tradition. Another remarkable element of Surūrī's effort is that, unlike the *ḥāshiyahs* written in the previous century in the Ottoman Empire, he devotes an important place to the thought produced in his own scholarly circle in the tradition of the *ḥāshiyah* of *al-Talwīḥ* by taking the statements of Ḥasan Chalabī to the center and discussing them directly. Regardless of his criticisms, his deeming these statements worthy of direct discussion demonstrates the fundamental importance that an Ottoman bureaucrat-scholar attributed to the intellectual circle in which he had grown up as a scholarly circle in which original thought was produced.

Another author whose statements are directly discussed by Surūrī Chalabī in his *Ḥāshiyah*, albeit to a lesser extent, is Ṣadr al-sharī'ah. In these sections, Surūrī sometimes criticizes *al-Tawḍīḥ*'s author, Ṣadr al-sharī'ah, and sometimes defends him against the criticisms leveled against him by one of his contemporaries, Kamālpashazādah, who died before him, in his *Tagbyīr al-Tanqīḥ*. Surūrī's response to these criticisms, which he reports with the word *qīla* indicating the weakness of the criticism or with the phrase *qāla ba'd al-muta'akkbirīn* without naming him, constitutes a remarkable detail as it demonstrates that he considered Kamālpashazādah, one of the deceased *Sheikh al-islām* of Suleiman I, as an intellectual opponent. Furthermore, his rare reference to the criticisms of Qāḍī Burhān al-Dīn, one of the first *ḥāshiyah* writers of *al-Talwīḥ* in *Bilād al-Rūm*, indicates that Surūrī had taken into account a large number of

ḥāshiyah written over a broad time in the tradition of *ḥāshiyah* that he inherited.

In comparison with the *ḥāshiyahs* written in the previous century, Surūrī Chalabī's *Ḥāshiyah* also comes to the forefront with an argument-based writing style. Accordingly, stating that "the questioner (*sā'īl*) has no stance (*madhhab*) in the realm of inquiry and dialectics," Surūrī Chalabī questioned the internal consistency of arguments or interpretations, discussed the compatibility of the argument raised for criticism with the argument being criticized, and checked whether the argument was designed in accordance with the principles and rules of *ādāb al-baḥth*. In this regard, while Surūrī Chalabī distinguished himself from the *ḥāshiyah* writers of the previous century by directly discussing the statements of al-Taftāzānī, Şadr al-sharī'ah, and the *ḥāshiyah* writers before his time, he also pursued the inherited tradition from the previous century with his argument-based writing style.

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THE SIGNIFICANCE OF MUḤAMMAD SHAḤRŪR'S SCIENTIFIC-HISTORICAL METHOD IN CONTEMPORARY ISLAMIC LEGAL THEORY (*UṢŪL AL-FIQH*)

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Abstract

The determination and application of Islamic legal rulings without causing turmoil in the modern world result in challenges continuing to be discussed. Since the methods for establishing modern Islamic law are not appropriately revised, the proposed measures tend to fail. The article examines the significance of upgrading the legal theory of Islamic law, known as the discipline of *uṣūl al-fiqh*. The theoretical upgrade is manifested in the application of both a critical-historical method and a scientific-historical method, the application of multiple contemporary academic approaches drawn from the humanities, social and positive sciences in addition to traditional religious knowledge and opinions from classical scholars. The issue of upgrading the discipline of *uṣūl al-fiqh* through the application of the

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scientific-historical method requires convincing scholars of the idea that the scientific-historical method is a prospective and integrative method for the contemporary discipline of *uṣūl al-fiqh*. The scientific-historical method is considered a new method in the discipline of *uṣūl al-fiqh* for three reasons. In the first instance, it is compatible with the principles of scientific democracy or pluralism (applying multiple approaches in problem-solving and adjudication). In the second instance, it is suitable for the demands of modern societies. In the third instance, it is suitable for the structure of modern states. In terms of the contemporary discipline of *uṣūl al-fiqh*, the article emphasizes the significance of Shaḥrūr's scientific-historical method in creating modern Islamic law. Nonetheless, the article still does not incorporate a concrete definition of Shaḥrūr's limits (*ḥudūd*) and does not provide examples of the use of the scientific-historical method in solving problems (e.g., eradicating legal corruption and promoting law enforcement in the Muslim world). Future studies may focus on the definition of Shaḥrūr's *ḥudūd* and the implementation of his scientific-historical method in solving problems of contemporary Islamic law.

Key Words: Scientific-historical method, Muḥammad Shaḥrūr, modern Islamic law, the state

Introduction

Paradigmatic studies¹ of Islamic legal theory (*uṣūl al-fiqh*) are limited, but it is necessary to establish an Islamic legal system that is dynamic and applicable in the context of modern societies and modern nation-states as once proposed by Muḥammad Iqbal (d. 1938).² Wael B. Hallaq categorizes approaches towards this study into two groups: religious utilitarianism and religious liberalism.³ The first group relies on the principle of the public interest (*maṣlaḥah*) revived by Abū Ishāq al-Shāṭibī (d. 790/1388). The second group

¹ In the history of science, the term "paradigm" is a term popularized by Thomas Kuhn. Although Kuhn did not concretely define the term, the reviewers of Kuhn's work can conclude that in Kuhn's view, a paradigm consists of theories, methods, facts, and experiments that have been mutually agreed upon and become a guide for the scientific activities of scientists. George Ritzer, *Sociological Theory*, 4th ed. (New York & Toronto: The McGraw-Hill Companies, inc., 1995), 635-637.

² Muhammad Iqbal, *The Reconstruction of Religious Thought in Islam* (Lahore: Javid Iqbal, 1971), 162.

³ Wael B. Hallaq, *A History of Islamic Legal Theories: An Introduction to Sunni Uṣūl al-Fiqh* (Cambridge: Cambridge University Press, 1997), 214-231.

reposes on liberal ideas in the discipline of *uṣūl al-fiqh* that include the initiatives of Muḥammad Shaḥrūr (d. 2019). Unfortunately, according to the conclusions drawn by Hallaq, the Muslim world is more interested in the first group and tends to reject the opinions of the second group. The reason for this is none other than the idea that the second group is considered to have no foundation in the traditional *uṣūl al-fiqh* discipline.⁴ The term “traditional” here refers to a general terminology in the sociology of science⁵ that includes the theories or paradigms based on classical ways of thinking.⁶

⁴ The author assumes that the traditional *uṣūl al-fiqh* discipline is the old *uṣūl al-fiqh* discipline that relies on textualism, or literalism, that includes al-Shāṭibī's utilitarianism. The evidence of literalism and utilitarianism can be seen in the primary sources of the *uṣūl al-fiqh* discipline. Abū l-Ḥusayn al-Baṣrī, *al-Mu'tamad*, ed. Khalīl al-Mays (Beirut: Dār al-Kutub al-ʿIlmiyyah, 2005), I, 9-333; al-Juwaynī, *al-Burbān fī uṣūl al-fiqh*, ed. Ṣalāḥ ibn Muḥammad ibn ʿUwayḍāt (Beirut: Dār al-Kutub al-ʿIlmiyyah, 1997), I, 39-214; Muḥammad Abū Zahrah, *Uṣūl al-fiqh* (Cairo: Dār al-Fikr al-ʿArabī, 1958), 139-184, 364-379; ʿAbd al-Wahhāb Khallāf, *ʿIlm uṣūl al-fiqh* (Kuwait: Dār al-Qalam, 1978), 140-197, 197-216; al-Ghazālī, *al-Mustasfā*, ed. Muṣṭafā Abū l-ʿIlā (Cairo: Maktabat al-Jund, 1971), 260-393; al-Shāṭibī, *al-Muwāfaqāt fī uṣūl al-sharīʿah*, ed. al-Shaikh Ibrāhīm Ramaḍān (Beirut: Dār al-Maʿrifah, 1997), III, 5-77; al-Shāfiʿī, *al-Risālah*, ed. Aḥmad Muḥammad Shākir (Beirut: Dār al-Fikr, 1309), 21-73; Waḥbah al-Zuhaylī, *Uṣūl al-fiqh al-Islāmī* (Damascus: Dār al-Fikr, 1986), I, 195-414.

⁵ Prior to 1931, the sociology of science was called the sociology of knowledge. However, on the initiative of Boris Hessen and Robert K. Merton, the sociology of knowledge was transformed into the sociology of science on the grounds that science develops faster than knowledge and the rapid progress of science cannot be separated from the social context, assumptions, values, and hidden interests of scientists and the general public. Randall Collins, “Development, Diversity, and Conflict in the Sociology of Science,” *The Sociological Quarterly* 24 (1983), 185-200; Mark Erickson, “Homer in the Laboratory: A Feyerabendian Experiment,” *Sociology of Science, Social Epistemology* 32, no. 2 (2018), 128-141, <https://doi.org/10.1080/02691728.2017.1410865>; Ilya Kasavin, “Towards a Social Philosophy of Science: Russian Prospects,” *Social Epistemology* 31 (2016), 1-15, <http://dx.doi.org/10.1080/02691728.2016.1227389>; Elif Kale-Lostuvali, “Two Sociologies of Science in Search of Truth: Bourdieu Versus Latour,” *Social Epistemology* 30, no. 3 (2016), 273-296, <http://dx.doi.org/10.1080/02691728.2015.1015062>; Martin Fleischmann, “Reflections on the Sociology of Science and Social Responsibility in Science in Relationship to Cold Fusion,” *Accountability in Research* 8, no. 1-2 (2000), 19-54, <http://dx.doi.org/10.1080/08989620008573964>; Jeffrey Tang, “How Do We Know? What Intelligence Analysis can Learn from the Sociology of Science,” *Intelligence and National Security* 32, no. 5 (2017), 663-674, <http://dx.doi.org/10.1080/02684527.2017.1311473>.

⁶ F. Budi Hardiman, *Kritik-Ideologi: Menyingkap Kepentingan Pengetahuan Bersama Jurgen Habermas* (Yogyakarta: Buku Baik, 2003), 52-60; Franz Magnis-Suseno, *Filsafat sebagai Ilmu Kritis* (Yogyakarta: Kanisius, 1992), 179-180.

Considering that scholars have labeled the traditional *uṣūl al-fiqh* discipline as a standardized closed system, the reasons for rejecting liberal ideas are understandable. The traditional *uṣūl al-fiqh* discipline always refers to the four main books, namely: *al-ʿAmd* (some authors refer to it as *al-ʿAbd*) by al-Qāḍī ʿAbd al-Jabbār (d. 416/1025), *al-Muʿtamad* by Abū l-Ḥusayn al-Baṣrī (d. 436/1044), *al-Burḥān* by Ḍiyāʾ al-Dīn ʿAbd al-Malik ibn Yūsuf al-Juwaynī (d. 478/1085), and *al-Mustaṣfā* by Abū Ḥāmid Muḥammad ibn Muḥammad al-Ṭūsī al-Ghazālī (d. 505/1111). Ideas contradicting these four books are considered subversive activities rather than positive contributions.⁷ However, if the traditional *uṣūl al-fiqh* discipline always rejects reform initiations, Islamic law may be marginalized from the society and the structure of the modern state or nation. The gate of *ijtibād*, therefore, is open for them forever.

Establishing or developing a new method is almost necessary from the scientific sociology perspective.⁸ If a method or science no longer allows itself to be criticized and developed, it means that it has been incarcerated by an ideology,⁹ or it has even turned into an ideology, not a science. This can be considered a “death knell” for a scientific discipline. The survival and dynamic enhancement of a scientific discipline are connected to its avoidance of ideological obstacles. Each science needs to develop under the dynamics of public circumstances and changes. As for *uṣūl fiqh* discipline, this understanding will be beneficial for Islamic law (*fiqh*) that engages in the real problems of modern society by simultaneously transmitting the divine message from God. The article examines the significance of Shaḥrūr’s scientific-historical method in developing a contemporary *uṣūl al-fiqh* discipline through the approach of the sociology of science. It, therefore, is engaged in the question of why the scientific-historical method in the contemporary *uṣūl al-fiqh* discipline is significant in establishing modern Islamic law. In

⁷ ʿAbd al-Raḥmān Ibn Khaldūn, *Muqaddimah* (Beirut: Dār al-Fikr, n.d.), 455; Muḥammad Muṣṭafā Shalabī, *Uṣūl al-fiqh al-Islāmī* (Beirut: Dār al-Nahḍah al-ʿArabīyyah, 1986), 41-42; Aḥmad Ḥuṣarī, *Naẓariyat al-ḥukm wa-maṣādir al-tashrīʿ fī uṣūl al-fiqh al-Islāmī* (Cairo: Maktabat al-Kulliyyāt al-Azhariyyah, 1981), 16.

⁸ Van Peursen, *Susunan Ilmu Pengetahuan*, trans. J. Drost (Jakarta: Gramedia, 1980), 6-7.

⁹ *Ibid.*, 74.

suggesting that the scientific-historical method can establish modern Islamic law, the article provides a rational and empirical argument.

The literature review method is applied throughout the research, and the primary information is taken from *uṣūl al-fiqh* sources. Meanwhile, secondary sources are directly or indirectly related to the discipline of *uṣūl al-fiqh* and the sociology of science. The data collection and documentation methods are also used to examine primary and secondary documents. The collected information was analyzed using the sociology of science approach as stipulated by Jürgen Habermas. This approach pays attention to the dominant theory and paradigm of science and observes the social context that underlies it. The approach also asserts that science is nothing but the result of a social contract between scientists. Science seems to encourage changes and developments regarding the demands of social situations and conditions.¹⁰ Habermas explains that this is a single approach through self-reflection to notice the relationship between science and human interest or, in other words, the relationship between objectivity and subjectivity. Finding this relation makes science more critical, dynamic, contextual, and liberating.¹¹ Shaḥrūr's thought is beneficial to contextualize *uṣūl al-fiqh* in the modern world in producing legal solutions for contemporary issues and challenges that include democracy and citizenship.

The article intends to provide insight into developing a new method in the contemporary *uṣūl al-fiqh* discipline. The discipline of *uṣūl al-fiqh*, along with the enhancements of contemporary Muslim society, is in dire need of developments that are more dynamic and compatible with time.

¹⁰ Peter L. Berger and Thomas Luckmann, *The Social Construction of Reality: A Treatise in the Sociology of Knowledge* (London: Penguin Books Ltd., 1991), 7-32; Peter L. Berger and Thomas Luckmann, *Tafsir Sosial atas Kenyataan: Risalah tentang Sosiologi Pengetahuan (The Social Construction of Reality)*, trans. Hasan Basari (Jakarta: LP3ES, 1990), 3-4; Gregory Baum, *Agama, dalam Bayang-bayang Relativisme: Sebuah Analisis Sosiologi Pengetahuan Karl Mannheim tentang Sintesa Kebenaran Historis-Normatif (Truth Beyond Relativism: Karl Mannheim's Sociology of Knowledge)*, trans. Aḥmad Murtaḥib Chaeri (Yogyakarta: PT. Tiara Wacana, 1999), 39-0, 60-8.

¹¹ Jürgen Habermas, *Knowledge and Human Interest*, trans. Jeremy J. Shapiro. (Boston: Beacon Press, 1971), 301-315.

1. The Urgency of a New Paradigm in the Discipline of *Uṣūl al-fiqh*

Since the mid-19th century, there have been reform initiatives regarding Islamic law. These reform initiatives brought out the establishment of the *Tanzīmāt* program in the Ottoman Sultanate in 1255/1839. This program led to the announcement of *Majallab-ʿi Aḥkām-i ʿAdliyyah*, which was the first codification attempt of Islamic civil law and which was completed from 1285/1868 to 1306/1889. However, the reform attempts to put more emphasis on the application of existing Islamic law (which had been formulated by the preceding scholars [*fuqabāʿ*]) to the structure of modern society rather than the establishment of modern Islamic law. In other words, the reform was implemented at the branch (*furūʿ*) level (e.g., Islamic family law or inheritance law), not at the main (*uṣūl*) level (e.g., building a new *uṣūl al-fiqh* in the context of modern democratic-state). To put an example, the issues were not paid attention to the implementation of religious freedom and application of the Qurʾānic punishments that include corruption, apostasy, and oligarchy in politics and economy. The reform has never fundamentally completed because the theoretical foundations of Islamic law or the discipline of *uṣūl al-fiqh* (which was established in pre-modern times) generally focused on principles in literally interpreting the Qurʾān and the Sunnah. The result of the reluctant reform policy indispensably produced a modified system of the old law, not a wholly renovated legal system. While responding to the critiques against his first book, *al-Kitāb wa-l-Qurʾān*, Shaḥrūr states that the critics are only constructing old paradigms by disguising those paradigms in “new clothes.” The applied knowledge system remains the old system. Therefore, scholars’ initiatives cannot be considered beneficial since they rely on those old paradigms.¹²

The codification, which has been seen as the main trend for modern Islamic law, is a modification tool and is not a design tool that produces truly modern Islamic law. The new paradigm of *uṣūl al-fiqh* is an urgent necessity. Muḥammad ʿĀbid Al-Jabirī (d. 2010) states:

¹² Muḥammad Shaḥrūr, *Dirāsah Islāmiyyah muʿāṣirah fi l-dawlah wa-l-mujtamaʿ* (Damascus: al-Ahālī li-l-Ṭibāʿah wa-l-Nashr wa-l-Tawzīʿ, 1994), 34.

In fact, the “adjustment” measures on the surface have come to an end... What is required today in the field of shari‘a is to do what the Ash‘arite philosophers [Fakhr al-Dīn al-Rāzī (d. 606/1210), for example] have done in the field of *aqīdah*, namely, reconstructing the method of thinking in shari‘a with reference to new propositions and contemporary goals. In other words, what is demanded now is a reform that refers not to merely initiating *ijtibād* over the branches (*furū‘*) of Islamic Fiqh but to constructing principles (*ta’ṣīl al-uṣūl*) by reconstructing those principles. The starting point of our time is the necessity of honing the reasoning skills of the *mujtabid* and reconstructing that reasoning. Without new reasoning, it is impossible to perform new *ijtibād*.¹³

It is crucial to separate *uṣūl al-fiqh* from the textualist paradigm and to rebuild it with a new paradigm because the existing *uṣūl al-fiqh* is the result of the interpretation of scholars (*‘ulamā’*) in the early Abbasid period (132/750) and afterward. The socio-political situation at that time, which tended to be tyrannical and not very democratic, greatly influenced the nuances of contemporary science. Now, the socio-political situation has become democratic in some relevant regions. The textualist method is no longer sufficient to meet the demands of the times. The principles of *uṣūl al-fiqh* should therefore change under the demands of the principle of *maṣlaḥah* in each era. Al-Jābirī wrote:

The principles of *uṣūl* that underlie *fiqh* now refer to the period of Islamic literature and sciences, the early Abbasid period, and may also refer to literature in the periods after. As for before the period of literature, there were no outlined rules that framed the idea of *ijtibād* as happened after. The *fiqh* experts who made these rules in their practice of *ijtibād* were born from the dominant knowledge system in their time and from the various needs and *maṣlaḥah* that emerged at that time. Because our era is radically different from the era of Islamic literature, either at the level of method or *maṣlaḥah*, it is imperative to

¹³ Muḥammad ‘Ābid al-Jābirī, *Democracy, Human Rights and Law in Islamic Thought* (London: I. B. Tauris & Co. Ltd., 2009), 63-103; al-Jābirī, *Agama, Negara, dan Penerapan Syari’ah*, trans. Mujiburrahman (Yogyakarta: Fajar Pustaka Baru, 2001), 148-149.

pay attention to this difference and try to answer the questions posed and imposed (by this era).¹⁴

In addition, according to Muḥammad Iqbal, the people need comprehensive and definite intellectual works that enable Islamic law to evolve following the needs of the times. This adjustment was made by ‘Umar ibn al-Khaṭṭāb (d. 24/644), the second caliph, and he contextualized the Qur’ānic punishment relating to cutting the thief’s hand in the famine time.¹⁵

The textualist and utilitarian paradigms in the classical *uṣūl al-fiqh* discipline are historical products of the previous scholars constructed under the needs of that time.¹⁶ Since the fall of Baghdad (656/1258), the dark age and the decline of the Muslim civilizations have resulted in scholars transforming the discipline of *uṣūl al-fiqh* into a mere doctrine that cannot guide them in formulating new *fiqh* and new ideas. In fact, it transformed into dogmatism and brought out a set of incremental views that developed as complicated as *fiqh* itself.¹⁷ This discipline has not, therefore, satisfied the needs of people in the modern era, especially in the field of legislation that includes politics, economy, and penal law.¹⁸ The idea of providing guidance turned out to be unsuitable for the needs of modern people, considering that it was created with the influence of the historical situation in which it was developed and was even influenced by the characteristics of the contemporary demands of Islamic jurisprudence.¹⁹ When *uṣūl al-fiqh* is applied in the present, the discipline will face methodological

¹⁴ *Ibid.*, 172-173.

¹⁵ Muhammad Iqbal, *The Reconstruction of Religious Thought in Islam*, ed. M. Saeed Sheikh (California: Stanford University Press, 2012), 129.

¹⁶ Muḥammad Shaḥrūr, *Naḥwa uṣūl jadīdah li-l-fiqh al-Islāmī* (Damascus: al-Ahālī li-l-Ṭibā‘ah wa-l-Nashr wa-l-Tawzī‘, 1994), 172; Ḥasan al-Turābī, *Qaḍāyā l-tajdīd: naḥwa manhaj uṣūlī* (Khartoum: Ma‘had al-Buḥūth wa-l-Dirāsāt al-Ijtihādiyyah, 1990), 195; id., *Pembabaruan Ushul Fiqh (Tajdīd uṣūl al-fiqh al-Islāmī)*, trans. ‘Afif Muḥammad (Bandung: Penerbit Pustaka, 1986), V, 10.

¹⁷ Al-Turābī, *Pembabaruan Ushul Fiqh*, trans. ‘Afif Muḥammad (Bandung: Penerbit Pustaka, 1986), 9.

¹⁸ Some experts evidence that Islamic law has implemented properly in the modern society; however, the implementation process has limitations in some part of public laws. The need for developing of Islamic legal theory therefore is still relevant today. See: Emine Enise Yakar, *Islamic Law and Society; The Practice of Iftā’ and Religious Institutions* (London and New York: Routledge, 2022), 23, 74, 123.

¹⁹ Al-Turābī, *Qaḍāyā l-tajdīd*, 195; id., *Pembabaruan Ushul Fiqh*, V, 10.

problems due to the time-space factor – this is the current complexity in the discipline of *uṣūl al-fiqh*. Al-Jābirī is one of the scholars who reveals this concern. He observes:

At present, the needs and concerns about the rules and methods that the *fiqh* and *uṣūl* scholars of the past have defined are very different from what these scholars imagined. The resolution of the concerns and problems in our period demands that we transcend the methodological limitations that bound the religious sciences in the past by interacting with them flexibly and viewing them from the point of view of relativity and historicity.²⁰

In line with al-Jābirī, Shaḥrūr also alludes to the urgency of formulating a new paradigm in the discipline of *uṣūl al-fiqh*, and he states:

We have discussed the problems that exist in the *turāth*s books..., but the problem lies not in the books, but in the *uṣūl* that was constructed since the second century AH... In our opinion, there must be a reconstruction of *uṣūl* based on the roots used as the basis by *salafī* scholars, as shown in their words and writings.²¹

Long before al-Jābirī and Shaḥrūr, Ḥasan al-Turābī (d. 2016) referred to the necessity of an effective solution for the methodological ambiguity (*al-ibhām al-manhajī*) which afflicts the discipline of *uṣūl al-fiqh* today. In his view, the discipline of *uṣūl al-fiqh* needs to be reconstructed by establishing a link between the transmission (*naql*) or revealed scripture (Qurʾān and Sunnah) and rational sciences that continuously develop following scientific research.²²

In al-Turābī's view, the discipline of *uṣūl al-fiqh*, like other Islamic disciplines, has lost its connection with the actual reality of society.²³ This scientific discipline, therefore, experiences what Thomas Kuhn (d. 1996) calls anomalies that eventually engender ossified crises²⁴ or –borrowing a term from Jurgen Habermas–experiences a disconnect with practical human interests.²⁵ It can therefore be asserted that the

²⁰ Al-Jābirī, *Negara, Agama, dan Penerapan Syari'ah*, 6.

²¹ Shaḥrūr, *Naḥwa uṣūl jadīdah*, 171.

²² Al-Turābī, *Qaḍāyā l-tajdīd*, 191; Muḥammad al-Tāhir al-Misāwī, "Qaḍāyā l-tajdīd: naḥwa manhaj uṣūlī," *al-Tajdīd* 1, no. 2 (1997), 200.

²³ Al-Turābī, *Qaḍāyā l-tajdīd*, 133-134.

²⁴ *Ibid.*, 135.

²⁵ Habermas, *Knowledge and Human Interest*, 301-317.

paradigms of *uṣūl al-fiqh* need to be renewed in the context of reforming Islamic law (*sharī‘ah*). Islamic law will not be renewed from outside (based on other sources), nor will it be superseded by a new one. However, it will be renewed from within the same sources but with a new understanding or a new method of application in accordance with the current time.²⁶ The renewal of *uṣūl al-fiqh* will be a remedy to invigorate the understanding of Islamic law and its application in modern life.

Over time, regulations regarding social life have disregarded changing realities and circumstances. The methodologist’s (*uṣūlī*) understanding has mostly been neglected and not developed properly. A new paradigm in *uṣūl al-fiqh* should therefore be established to construct Islamic law that is more serviceable in regulating daily life and takes individual and social circumstances into account.²⁷ The influence of the scholars who stay away from the problems of public life is that the existing Islamic legal theory only revolves around the issues that include text interpretation, confirmation, selection (*tarjīḥ*), identification of implicit or explicit arguments in the text (*maḥbūm muwāfaqah*, and *maḥbūm mukhālafah*).²⁸ However, Islamic law and the discipline of *uṣūl al-fiqh* need to develop dynamically to offer solutions for practical social challenges.²⁹ A new paradigm in the discipline of *uṣūl al-fiqh* should therefore be eliminated from ideological and dogmatic restraints and provide a framework to formulate public *fiqh* that engages with the demands of modern times.³⁰

The discourse on the closing of the gate of *ijtihād* (independent legal reasoning) was nothing but the inability to perform *ijtihād* because the old paradigm in the discipline of *uṣūl al-fiqh* was obsolete and was ideologically trapped. Al-Jabirī refers to the dysfunction that roots in the understanding of closing the gate of *ijtihād*, and he states:

The specific problems of the past, although similar, were limited or possible to be limited; the *sharī‘ah* texts (the Qur’ān and Sunnah) are

²⁶ Al-Turābī, *Qaḍāyā l-tajdīd*, 53-55.

²⁷ Al-Turābī, *Pembaharuan Ushul Fiqh (Tajdīd uṣūl al-fiqh al-Islāmī)*, 15.

²⁸ *Ibid.*, 12.

²⁹ *Ibid.*, 1.

³⁰ *Ibid.*, 19-3.

also limited, and similarly, *ijtibād* understands the words and the limits of instruction from those texts..., eventually and inevitably, it will reach the point where nothing else remains, and then the obvious result is that the opportunity for *ijtibād* will be “closed,” but not “closed” [intentionally] as people say. No one in the Islamic world has the power to “close” the gate of *ijtibād*, be it rulers, *fiqh* experts, or others because, in Islam, there is no church or any institution that has the power to “close” or “open” opportunity for *ijtibād*...³¹

It can be asserted that the opportunity to perform *ijtibād* is never demised. However, the period of dynamic reasoning deteriorated during the political turmoil after the collapse of the Ottoman Sultanate, the dominant power in the Muslim world, in 1340/1923. Some scholars tried to conceptualize new methods of *ijtibād* through the available paradigm of Islamic legal theory. For example, Ṭāhā Jābir al-‘Alwānī schemed the theory of Islamic jurisprudence for Muslim minorities (*fiqh al-aqalliyyāt*).³² However, his approach cannot provide an effective solution to the problem that originates in the disconnection between Islamic law and the concept of the modern state. Islamic jurisprudence for Muslim minorities is only a temporary solution to permanent problems in implementing Islamic law within the modern state structure. It, therefore, is necessary to formulate a new paradigm or, borrowing a term from Habermas, a criticism of science as an ideology. Therefore, the current status of Islamic law needs to construct a new paradigm. This is what is commonly called *uṣūl* reconstruction (*taʿṣīl al-uṣūl*) or redesigning the principles of Islamic law. Al-Jābirī observes:

What is required today is to reconstruct the methodology of thinking in the shari‘a concerning new propositions and contemporary “goals”. In other words, what is demanded now is a reform that refers not to merely initiating *ijtibād* over the branches (*furūʿ*) [of *fiqh*] but to a measure “to construct principles,” that is, to reconstruct the principles.³³

³¹ Al-Jābirī, *Agama, Negara, dan Penerapan Syari‘ah*, 152-153.

³² Emine Enise Yakar and Sumeyra Yakar, “The Critical Analysis of Taha Jabir al-Alwani’s Concept of Fiqh al-Aqalliyyāt,” *Hitit İlahiyat Dergisi* 20, no. 1 (2021), 377-404.

³³ Al-Jābirī, *Agama, Negara, dan Penerapan Syari‘ah*, 158.

2. The Failure of the Literalistic Paradigm and the Utilitarian Paradigm

In the sociology of science, an exemplar is generally accepted as a scientific discovery. Exemplars can be in the form of tangible habits, accepted scientific premises, tangible results of scientific developments, and generally accepted findings.³⁴ Exemplars, therefore, are discoveries or tangible works in a field of science that contain certain unique paradigms and that are recognized by interested scientists.

Based on the paradigmatic view, three sources meet the criteria in the theological school (*mutakallimūn*) of *uṣūl al-fiqh*. The three sources are *al-Risālah* by al-Shāfi‘ī, *al-Muwāfaqāt* by al-Shāṭibī, and two books by Shaḥrūr, namely, *al-Kitāb wa-l-Qur‘ān* and *Naḥwa uṣūl jadīdah li-l-fiqh al-Islāmī*. The first source, *al-Risālah*, proposes the textualist or literalist paradigm (*naṣṣ*).³⁵ The second source, *al-Muwāfaqāt*, proposes the utilitarian paradigm (*al-maṣlaḥah*). On the other hand, the third sources, *al-Kitāb wa-l-Qur‘ān*, and *Naḥwa uṣūl jadīdah li-l-fiqh al-Islāmī*, supports the scientific-historical paradigm (*al-tārikhī al-‘ilmī*).

In the course of the history of Islamic law, *al-Risālah* was considered the first pioneering book on the discipline of *uṣūl al-fiqh*, especially in the *mutakallimūn* school. *Uṣūl* scholars then followed *al-Risālah* that applied the theological-deductive method in writing that was common amongst the Shafi‘ī, Mālikī, Ḥanbalī, and Mu‘tazilī schools. Meanwhile, Ḥanafī scholars had a way of writing, which was inductive-analytical. Both *al-Risālah* and *uṣūl al-fiqh* books of the *mutakallimūn* school and the Ḥanafī school presented the same textualist paradigm. This paradigm lasted approximately five

³⁴ Ritzer, *Sosiologi Ilmu Pengetahuan Berparadigma Ganda*, 5-6.

³⁵ The author adopts the term “the literalist paradigm” from H. A. R. Gibb. According to Gibb, the orthodox conception of science emphasizes a narrow and literalist conception of science (*zābirī*, textual). Pre-modern Islamic scholars pay great attention to this kind of paradigm of “letteralism.” Please view and compare: al-Jābirī, *Binyat al-‘aql al-‘Arabī* (Beirut: al-Markaz al-Thaqāfī al-‘Arabī, 1992), 20, 38, 113, 117, 252, 383-4, 515, 530-1, 556; id., *Takwīn al-‘aql al-‘Arabī* (Beirut: al-Markaz al-Thaqāfī al-‘Arabī, 1993), 24, 96-8, 100-339, 338-9; Bernard 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), 72, 45; H. A. R. Gibb, *Aliran-aliran Modern dalam Islam* (Jakarta: Rajawali Press, 1996), 111.

centuries, from the second century AH to the seventh century AH (8th to 13th CE). The textualist paradigm (which is called *al-bayān* or *bayānī* paradigm by al-Jābirī) is a way of thinking based on the texts either directly or indirectly.³⁶ The textualist paradigm is the typical product of Arab Muslims, just as philosophy is the typical product of the Greeks. Modern science and modern technology are the typical products of modern Europeans.³⁷ The textualist paradigm, in the end, also engendered a distinctive tradition, namely, the tradition of full comprehension (*al-fiqh*) in Islam.³⁸

Historically, the textualist paradigm adhered to the textual meaning (*ẓāhir*) of the texts has its roots in the period that starts with Abū l-Walīd Muḥammad ibn Aḥmad ibn Rushd (d. 594/1198) and culminates in Abū Muḥammad ‘Alī ibn Aḥmad ibn Sa‘īd ibn Ḥazm al-Ẓāhirī (d. 456/1064). This textualist tendency was formulated by Abū ‘Abd Allāh Muḥammad ibn Idrīs al-Shāfi‘ī (d. 204/820), the founder of the discipline of *uṣūl al-fiqh*. It can also be assumed that al-Shāfi‘ī is the real founder of the textualist paradigm.³⁹ The means used in the textualist paradigm are Arabic grammatical rules, while the target is the text of the Qur’ān and Sunnah.

As for the *maṣlaḥah* paradigm, it is a way of thinking in the discipline of *uṣūl al-fiqh* that adheres to the intention behind a text which is not a clear (*ẓāhir*) text. This tendency has its roots in the tradition that developed after Ibn Rushd, especially on the initiatives of al-Shāṭibī.⁴⁰ When a *ẓāhir* text has been unable to relatively solve new problems, the scholars adhere to the intention behind the text. The presence of al-Shāṭibī, who proposed the principle of *maqāṣid al-sharī‘ah*, has provided a new way of thinking for the discipline of

³⁶ “Directly” means to immediately perceive the text as ready-made knowledge. “Indirectly” means to do reasoning based on the text. In other words, this paradigm assumes that the source of knowledge is *naṣṣ* (text) or reasoning based on *naṣṣ*. Reason will not be able to provide knowledge, unless it is based on text. Al-Jābirī, *Binyat*, 20, 556.

³⁷ *Ibid.*, 96-98; al-Jābirī, *Takwīn*, 338-339.

³⁸ Because it makes *naṣṣ* as a central source of knowledge, the tradition of comprehending and clarifying the meaning of the text becomes very prominent in this paradigm. This tradition is commonly known as *fiqh* tradition. Seeking knowledge by means of liberal speculative thinking is unknown in this epistemology. *Ibid.*, 96-98, 100-339; See al-Jābirī, *Binyat*, 24, 38, 113.

³⁹ *Ibid.*, 96-98; al-Jābirī, *Takwīn*, 338-339.

⁴⁰ Al-Shāṭibī, *al-Muwāfaqāt*; al-Jābirī, *Binyat*, 530-531; See: Weiss, *The Search for God's Law*, 72, 45.

uṣūl al-fiqh. He reformed this discipline by offering a new theory that refers to the most basic purpose of God as the Lawgiver (*shāriʿ*). Thus, the discipline of *uṣūl al-fiqh* is no longer only fixated on the literal meaning of the text. The presence of al-Shāṭhibī can be seen as a paradigm-shift phenomenon as theorized by Thomas Kuhn and, at the same time, marked the failure of the literalist paradigm and the emergence of the utilitarian paradigm.

The paradigm proposed by al-Shāṭhibī in the eighth century AH (14th CE) was revitalized after six centuries by reformers of *uṣūl al-fiqh* in the modern world that includes Muḥammad ʿAbduh (d. 1905),⁴¹ Rashīd Riḍā (d. 1935),⁴² ʿAbd al-Wahhāb Khallāf (d. 1956),⁴³ ʿAllāl al-Fāsī (d. 1973),⁴⁴ and Ḥasan al-Turābī.⁴⁵ Since they did not offer a new paradigm and only revitalized the principle of *maṣlaḥah* (that is proposed by al-Shāṭhibī), Hallaq categorizes these figures as reformers who adhere to utilitarianism.⁴⁶

In the process of its development, the utilitarian paradigm also failed due to the demands of modern life. This paradigm, therefore, had the same fate as the literalist paradigm. Although the supportive utilitarian scholars have paid attention to the primary intent of Islamic law and crossed the boundaries of literalism, they have not offered a new theory and have only revitalized the classical principle of *maṣlaḥah*. For this reason, the utilitarian paradigm confronts a problem and crisis. One of the causes of the crisis in this paradigm is that the subjective interests of its users easily take it over. The prolonged crisis of the utilitarian paradigm brought out the paradigm of religious liberalism. The character of this paradigm is liberal, and it

⁴¹ Muḥammad ʿAbduh, *al-Aʿmāl al-kāmilah li-l-Imām Muḥammad ʿAbduh*, ed. Muḥammad ʿImārah (Beirut: al-Muʿassasah al-ʿArabiyyah li-l-Dirāsah wa-l-Nashr, 1972-4).

⁴² Rashīd Riḍā, *Yusr al-Islām wa-uṣūl al-tashrīʿ al-ʿāmm* (Cairo: Maṭbaʿat Nahḍat Miṣr, 1956).

⁴³ ʿAbd al-Wahhāb Khallāf, *Maṣādir al-tashrīʿ fī mā lā naṣṣ fīh* (Cairo: Dār al-Kitāb al-ʿArabī, 1955).

⁴⁴ ʿAllāl al-Fāsī, *Maqāṣid al-sharīʿah al-Islāmiyyah wa-makārimuhā* (Casablanca: Maktabat al-Waḥdah al-ʿArabiyyah, 1963).

⁴⁵ Al-Turābī, *Tajdīd uṣūl al-fiqh* (Beirut and Khartoum: Dār al-Fikr, 1980). This book has been translated into Indonesian by ʿAfīf Muḥammad under the title *Pembaharuan Ushul Fiqh*. See: Ḥasan al-Turābī, *Pembaharuan Ushul Fiqh*. Also please read his work titled: *Tajdīd al-fikr al-Islāmī* (Rabat: Dār al-Qarāfī li-l-Nashr wa-l-Tawzīʿ, 1993).

⁴⁶ Hallaq, *A History of Islamic Legal Theories*, 214-231.

is not based on the old paradigm at all.⁴⁷ This paradigm has a strong tendency to discard all the principles that previous *uṣūl* scholars had constructed,⁴⁸ but it is more concerned with the interpretation of the spirit of the literal text and places more emphasis on comprehending the relationship between text and context.⁴⁹ In referring to a similar point, Hallaq asserts that the liberal paradigm, compared to the utilitarian paradigm, is relatively more capable of contributing to new theories and methodologies in realizing humanistic Islamic law. The new methodology relies on the idea of textual-contextual analysis.⁵⁰ Some scholars like Abdullah Saeed and Ali Akbar call them contextualists.⁵¹ The exponents of this paradigm were Muḥammad Saʿīd al-ʿAshmāwī (d. 2013),⁵² Fazlur Rahman (d. 1988),⁵³ and Shaḥrūr.⁵⁴ These figures have sought to offer a new legal theory different from the existing one. Other prominent figures like Muḥammad Iqbal,⁵⁵ Maḥmūd Muḥammad Ṭāhā (d. 1985),⁵⁶ ʿAbd Allāh Aḥmad al-Naʿīm (b. 1946),⁵⁷ and ʿAbd al-Ḥamīd Abū Sulaymān

⁴⁷ *Ibid.*, 231-254.

⁴⁸ *Ibid.*, 214.

⁴⁹ *Ibid.*, 231.

⁵⁰ *Ibid.*, 254.

⁵¹ Abdullah Saeed and Ali Akbar, "Contextualist Approaches and the Interpretation of the Qurʾān," *Religions* 12, no. 7 (2021), 527, <https://doi.org/10.3390/rel12070527>.

⁵² Muḥammad Saʿīd Ashmāwī, *Uṣūl al-sharīʿah* (Beirut: Dār Iqraʾ, 1983).

⁵³ Fazlur Rahman, "Towards Reformulating the Methodology of Islamic Law: Sheikh Yamani on Public Interest in Islamic Law," *New York University Journal of International Law and Politics* 12 (1979), 219-24.

⁵⁴ Shaḥrūr, *Al-Kitāb wa-l-Qurʾān: qirāʾah muʿāṣirah* (Cairo and Damascus: Sinā li-l-Nashr, 1992).

⁵⁵ Muhammad Iqbal, *The Recontsruction of Religious Thought in Islam* (Lahore: Ashraf Press, 1971); According to some observers, Iqbal's *The Reconstruction* is the first book to propose the need to reform the discipline of *uṣūl al-fiqh*. See: Busthāmī Muḥammad Saʿīd, *Gerakan Pembaharuan Agama antara Modernisme dan Tajdīd ad-Dīn (Maḥbūm Tajdīd ad-Dīn)* (Bekasi: Wala Press, 1995), 265-268.

⁵⁶ Mahmoud Mohamed Taha, *The Second Message of Islam*, trans. Abdullahi Ahmed an-Naʿīm (Syracuse: Syracuse University Press, 1987).

⁵⁷ Abdullahi Ahmed an-Naʿīm, *Toward an Islamic Reformation: Civil Liberties, Human Rights, and International Law* (Syracuse: Syracuse University Press, 1990); A critical study of legal thought of an-Naʿīm, please read: Muhyar Fanani, "Abdullāhi Ahmed an-Naʿīm: Paradigma Baru Hukum Publik Islam," in *Pemikiran Islam Kontemporer*, ed. A. Khudhori Sholeh (Yogyakarta: Jendela, 2002), 1-32.

(d. 2021)⁵⁸ can also be included. However, their contributions are not as clear and systematic as the three thinkers mentioned earlier.

In Hallaq's view, both the utilitarian and liberal paradigms, although different in style, engendered the idea of renewal proposed by 'Abduh as stated in *al-A'māl al-kāmilah*.⁵⁹ In 1898 'Abduh called for the necessity to revive *ijtibād* for Muslims with a new scientific design of *uṣūl* to tailor Islamic law to the modern world. 'Abduh asserted that Muslims had fallen into hyper-*taqlīd* (super-conformity) and that only re-opening the gate of *ijtibād* would enable Muslims to reform the law in accordance with the challenges of legal modernity.⁶⁰ Although 'Abduh sought to offer several concepts for the renewal of *uṣūl al-fiqh* (e.g., the reconception of *ijmā'* (consensus),⁶¹ maximizing the role of reason in understanding *naṣṣ*,⁶² maximizing the principles of *maṣlahah*, and utilizing the opinions of classical legal scholars using *talfīq*⁶³), he was more of a source of inspiration for the later *uṣūl al-fiqh* reformers.⁶⁴ Apart from being inspired by 'Abduh, the two paradigms also have the same goal. On the one hand, they want to offer a reformulation of Islamic legal theory that reflects Islamic values. On the other hand, they also offer a law that completely fits the changing needs of modern society,⁶⁵ especially after the fall of the Ottoman Sultanate and the emergence of nation-state in the Muslim world around the 1950s.

⁵⁸ Abdul Hamīd A. Abū Sulaimān, *Toward an Islamic Theory of International Relations: New Direction for Methodology and Thought* (Herndon, Virginia: IIIT, 1994).

⁵⁹ 'Abduh, *al-A'māl al-kāmilah li-l-Imām Muḥammad 'Abdub*.

⁶⁰ *Ibid.*, 203; For further information on the legal reforms called for by 'Abduh, refer to Malcolm H. Kerr, *Islamic Reform: The Political and Legal Theories of Muḥammad 'Abdub and Rashīd Riḍa* (Berkeley and Los Angeles: University of California Press, 1966).

⁶¹ For 'Abduh, *ijmā'* is a collective rational decision that is in accordance with conscience. In other word, *ijmā'* is nothing but the collective reasoning of the scholars in harmony with their conscience, which cannot be renewed at any time; Kerr, *Islamic Reform*, 144; Khoiruddin Nasution, *Riba & Poligami: Sebuah studi atas Pemikiran Mubammad Abdub* (Yogyakarta: Pustaka Pelajar-ACAdEMIA, 1996), 24-30.

⁶² Nasution, *Riba & Poligami*, 23.

⁶³ *Ibid.*, 31.

⁶⁴ Hallaq, *A History of Islamic Legal Theories*, 212.

⁶⁵ *Ibid.*, 214.

Although both approaches originate in ‘Abduh’s view regarding the process of their development in contemporary times, the utilitarian paradigm is more widely embraced by the 20th-century Muslims than the ideas of the liberals.⁶⁶ However, the utilitarian paradigm still has some problems that include the emergence of opportunities for legal subjectivity and legal relativity⁶⁷ because these issues are not paid much attention to. Muslim society has begun to favor liberal ideas, especially since international terror incidents (e.g., the September 11 attacks on New York)⁶⁸ were allegedly masterminded by some Muslims.

One of the most important figures within the liberal block is Muḥammad Shaḥrūr, who made a convincing contribution to the liberal paradigm. The utilitarian-religious paradigm seeks to only renew the values of Islamic law and considers that its methodological framework is still compatible with the old framework (the concept of *maṣlaḥah*). However, Shaḥrūr offers structured textual-contextual analysis tools to make it more likely in producing humanistic laws that are still guided by the purpose of the revelation.⁶⁹ Shaḥrūr made an ideological criticism of the discipline of *uṣūl al-fiqh* to realize a humanistic and positivistic legal theory, which at the same time remains within the guidance of the revelation.⁷⁰ The scientific-historical method proposed by Shaḥrūr, therefore, seeks to introduce new concepts (e.g., constitution, pluralism, civil society, democracy, and opposition) into the Islamic legal tradition,⁷¹ which cannot be provided by the principle of *maṣlaḥah* in the literalist paradigm. It may be stated that Shaḥrūr refers to the failure of the utilitarian paradigm and the presence of a liberal paradigm in the discipline of *uṣūl al-fiqh*.

⁶⁶ *Ibid.*, 162.

⁶⁷ Hallaq, *A History of Islamic Legal Theories*, 231; Fazlur Rahman, “Towards Reformulating the Methodology of Islamic Law,” 223.

⁶⁸ Shaḥrūr’s letter to Muhyar Fanani (the author) dated October 21, 2001; Ahmad Hissou, “Muḥammad Shaḥrūr: ‘We Urgently Need Religious Reform’” (An Interview), translated from German by Aingeal Flanagan, <http://pages.zdnet.com/plm/id165.html>, accessed on January 18, 2005.

⁶⁹ Hallaq, *A History of Islamic Legal Theories*, 254.

⁷⁰ *Ibid.*, 255.

⁷¹ Muḥammad Shaḥrūr, “Reading the Religious Text: A New Approach,” <http://islam21.net/pages/keyissues/key1-7.htm>, accessed on April 21, 2001.

3. Liberal Paradigm, Scientific-Historical Method, and Democracy

The question of how religious texts can be understood and then implemented in the context of the modern world, which is no longer the same as the context of the Prophet's time, is still an emergent agenda for Muslims. Some scholars, like Muḥammad Iqbal,⁷² Maḥmūd Muḥammad Ṭāhā,⁷³ ‘Abd Allāh Aḥmad al-Na‘īm,⁷⁴ Muḥammad Sa‘īd al-‘Ashmāwī,⁷⁵ Fazlur Rahman,⁷⁶ and Shaḥrūr,⁷⁷ it cannot be solved by relying on the principle of *maṣlaḥah*. They think the principle of *maṣlaḥah* is no longer sufficient to enable the survival of Islamic law in the modern world.⁷⁸ Muḥammad Shaḥrūr offers a liberal paradigm by using the scientific-historical method.

The scientific-historical method can be defined as a principle to utilize current (recent) scientific achievements, not past knowledge systems, to explore Islamic law in particular, and to develop Islamic sciences in general.⁷⁹ The conception of *ijtibād* proposed by Shaḥrūr, therefore, necessitates using all scientific achievements and all modern knowledge systems.⁸⁰ Even Shaḥrūr believes that *ijtibād* must be oriented toward accurate statistical material evidence that can reveal public interest and convenience for human society. *Ijtibād* should not be based only on prejudices or feelings.⁸¹ Therefore, the involvement of experts from the humanities and natural and social sciences is crucial. Some official religious institutions consult scientific experts before issuing their collective legal opinions (*fatwās*).⁸² However, the concept of *ijtibād* in the thoughts of the

⁷² Iqbal, *The Recontstruction of Religious Thought in Islam*, 162.

⁷³ Taha, *The Second Message of Islam*, 21-40.

⁷⁴ an-Na‘īm, *Toward an Islamic Reformation*, 1-68.

⁷⁵ Al-‘Ashmāwī, *Uṣūl al-sharī‘ah*, 70-179.

⁷⁶ Fazlur Rahman, “Towards Reformulating the Methodology of Islamic Law,” 219-224.

⁷⁷ Shaḥrūr, *al-Kitāb wa-l-Qur’ān*.

⁷⁸ Hallaq, *A History of Islamic Legal Theories*, 214; Thomas S. Kuhn, *The Structure of Scientific Revolutions* (Chicago: The University of Chicago Press, 1970), 122; Shaḥrūr, *Dirāsah Islāmiyyah mu‘āṣirah*, 35-41.

⁷⁹ Shaḥrūr, *Dirāsah Islāmiyyah mu‘āṣirah*, 35-41.

⁸⁰ *Ibid.*, 55-56.

⁸¹ Shaḥrūr, *al-Kitāb wa-l-Qur’ān*, 459.

⁸² Emine Enise Yakar, “The Diachronic Change of the Practice of *Iftā’*: From Individual to Collective,” *Islamic Studies* 60, no. 1 (2021), 343.

traditional *uṣūl al-fiqh* scholars has not paid enough attention to those experts, and *ijtibād* thus becomes the monopoly of legal scholars. The requirement of being a *mujtabid* is conditioned as mastering the Qur'an, Qur'ānic studies, Sunnah, *ijmā'* and *ikhtilāf*, *qiyās*, *maqāṣid al-aḥkām*, Arabic language, having comprehensive perception, good intent and *'aqīdah* (creed and belief).⁸³ Similarly, Shaḥrūr asserts that *ijtibād* should no longer be performed by scholars but by academics and experts from all disciplines who become members of a consultative commission (that accompanies representative institutions). In his view, the role of issuing *fatwās* has been replaced by legislative polls and national parliament that uphold democracy, freedom of expression and the media, and the existence of opposition (*al-mu'arāḍah*).⁸⁴

Although there are several other contemporary scholars like Fazlur Rahman, 'Abd al-Karīm Surūsh, Muḥammad Mujtahid Shabustarī, Naṣr Ḥāmid Abū Zayd (d. 2010), Mehmet Paçacı, and Ömer Özsoy⁸⁵ who call for the importance of incorporate science and technology into the *ijtibād* process likewise Shaḥrūr, their approach does not emphasize the equal involvement of experts from all fields of science with the scholars. This is because they still position religious scholars as decision-makers and other scientific experts as assistants.⁸⁶ This is indicated by Qodri A. Azizy (d. 1429/2008), who states:

⁸³ Al-Shāṭibī, *al-Muwāfaqāt*, IV, 477-487; Ḥasan Ḥanafī, *Mawsū'at al-ḥaḍārah al-'Arabīyyah al-Islāmiyyah*, (Amman: Dār al-Fāris li-l-Nashr wa-l-Tawzī', 1995), II, 52; M. Ḥasan Haytū, *al-Ijtibād wa-ṭabaqāt mujtabidī l-Shāfi'iyyah* (Beirut: Mu'assasat al-Risālah, 1988), 17-31; al-Ghazālī, *al-Mustasfā*, 478; al-Shahrastānī, *al-Milal wa-l-niḥal* (Beirut: Dār al-Fikr, 1990), 200-201; Abū Zahrah, *Uṣūl al-fiqh*, 380-389; al-Ghazālī, *al-Mustasfā*, 478-481.

⁸⁴ Shaḥrūr, *Naḥwa uṣūl*, 208.

⁸⁵ Abdullah Saeed and Ali Akbar give good explanations on the thoughts of these contemporary experts who used contextualist approach. Ali Akbar, "Towards a Humanistic Approach to the Quran: New Direction in Contemporary Islamic Thought," *Culture and Religion* 20, no. 1 (2019), 82-103; Ali Akbar, "Fazlur Rahman's Influence on Contemporary Islamic Thought," *The Muslim World* 110, no. 2 (2020), 129-153; Ali Akbar, *Contemporary Perspectives on Revelation and Quranic Hermeneutics: An Analysis of Four Discourses* (Edinburgh: Edinburgh University Press, 2020), Chapter 3-6.

⁸⁶ This can be proven in the conditions that must be met by *mujtabid*, which are widely mentioned in the works of classical *uṣūl al-fiqh*. Experts of *uṣūl al-fiqh* averagely require *mujtabid* to have an extensive knowledge of Islamic disciplines, the Qur'an (*mujtabid* must know at least 500 verses of legal content in the Qur'an), and the Sunnah, *ijmā'*, and Arabic.

The willingness of scholars to cooperate with other institutions/agencies [is very much needed]. They are consciously willing to enrich their knowledge apart from knowledge in their field to support the maturity of their scientific specialization.

Supplementary knowledge from disciplines other than Islamic law, such as social and human sciences, is also needed to incorporate inter-disciplines or multi-disciplines. I think that the results of science and technology studies, including medical or engineering technologies, cannot be discarded from the *ijtihad* process.⁸⁷

It is asserted that scholars seem to be given a more dominant role than other experts. Scientific experts only act as supporters or assistants in the *ijtihad* process.

Unlike Qodri, Shaḥrūr bases his ideas on the scientific-historical method. For Shaḥrūr, all scholars from all relevant disciplines should be given leadership roles, and no one plays only a supporting role. All scholars have an equal, independent, and fair position.⁸⁸ What is formulated by Shaḥrūr is more democratic and reasonable, and more promising to achieve an effective discussion and dialogue. This is because the *ijtihad* process will not be effective if there is no equal historical position in the dialogue.⁸⁹ The positions of scholars that are higher than scientific experts will provide them with some privileges (e. g., veto power) which will undermine the dialogue's function. This therefore will only distort the dialogue and weaken its accuracy.

4. Scientific-Historical Method and Context of Modern Society

Each of the three paradigms in *uṣūl al-fiqh* relates to their relevant socio-historical contexts. Apart from being related to the debate between the textualist group (*abl al-ḥadīth*) and the rationalist group (*abl al-ra'y*) (which the textualist group finally defeated), the textualist paradigm also established its relationship with the phenomenon of tyranny within the social structure of Islamic society in the second century AH (8th CE). Al-Shāfi'ī, the originator of this paradigm, lived between 150-204 AH (767-820 CE), coinciding with

⁸⁷ Aḥmad Qodri A. Azizy, *Reformasi Bermazhab: Sebuah Ikhtiar Menuju Ijtihad Sesuai Saintifik-Modern* (Jakarta: Teraju, 2003), 116.

⁸⁸ Shaḥrūr, *Naḥwa uṣūl*, 208.

⁸⁹ Gregory Baum, *Agama dalam Bayang-bayang Relativisme*, 41, 64.

the beginning of the Abbasid regime that ruled the Muslim world between the years 750-1258 CE. As stated by Fazlur Rahman (d. 1988), the contemporary political system was one of the sources of absolute obedience and conformity of the people to the rulers to maintain integrity among and protect Muslims from destruction. However, political obedience and conformity eventually developed into dogma,⁹⁰ manifested by the ḥadīth supporters' victory. The way of thinking of the adherents of *ahl al-ḥadīth*, which was the forerunner of the textualist paradigm, clearly favored the ruling political system in the era during al-Shāfiʿī's period. This was because the easy justification for the leadership of the contemporary caliphs was provided by using the existing authoritative texts, and the validity of the interpretation of a text turned out to be very arbitrary and easily distorted. Textualism could also be used by the authorities to create social cohesion, which was destroyed by various schools of that time. Social cohesion was an important issue for the rulers. To achieve their goal, the rulers used all kinds of potential resources, including the textualist paradigm.

The relationship of the utilitarian paradigm can be traced to the social context of the era when al-Shāṭibī lived in Granada, Spain, and with the Muslim world in general in the 14th century CE. At that time, the Islamic civilizations, including Spain, faced a severe downfall. The social system of the Muslim world was quite stagnant after the overthrow of the Abbasid Caliphate by the Mongols in 657/1258. However, there were always intellectuals who ruminated on restoring the glory of contemporary Muslims. Al-Shāṭibī, like his Tunisian acquaintance, Abū Zayd ʿAbd al-Raḥmān ibn Muḥammad ibn Khaldūn al-Ḥaḍramī (d. 784/1382), aimed to fulfill his intellectual duties and contribute to the Islamic civilization. He started his specialization in the discipline of *uṣūl al-fiqh*. The utilitarian paradigm (that he initiated) was intended to reconstruct the paradigm of thinking among Muslims in the legal area so that Islamic law would not be alienated from changing social realities. With that paradigm, he wanted to explain to the entire Muslim world a policy that aimed

⁹⁰ Fazlur Rahman, *Islamic Methodology in History* (Islamabad: Islamic Research Institute, 1988), 149-172; Fazlur Rahman, *Membuka Pintu Ijtihad*, trans. Anas Mahyuddin (Bandung: Pustaka, 1995), 148.

to completely change the world. In the initial periods, Muslims were victorious, but in the later periods, Muslim civilizations were ruined. The textualist theoretical basis had not been able to produce updated appropriate solutions to drastic social changes. It was necessary to find a new paradigm more responsive to social change so that Islamic civilization could rise again based on new social realities. Al-Shāṭibī chose the utilitarian paradigm which he considered more flexible than the textualist paradigm in meeting the needs of social dynamics. Al-Shāṭibī's paradigm has been revitalized by many modern thinkers like 'Abduh, Riḍā, and al-Turābī.⁹¹

It is also possible to trace the relationship between the liberal paradigm and its social system. Shaḥrūr initiated the liberal paradigm in Syria at the end of the 20th century, or to be precise, in 1990. The emergence of this paradigm was related to the contemporary situation of people in the Muslim world, the Middle East, and Syria who experience problems implementing democracy and civil liberties in all aspects of life. Shaḥrūr underlined to establish a new legal paradigm that is more democratic and adaptable to the demands for civil liberties. In his view, this paradigm rescues Islamic law from the shackles of scholars who generally have difficulty understanding social realities because of the limitations of their analytical tools. Shaḥrūr's liberal paradigm approach, therefore, intends to establish means for legal reconstruction.

Although Shaḥrūr did not engage in practical political activities or support certain political powers, he had an agenda of introducing democracy among Muslims. Shaḥrūr was interested in breaking the dominance of the tyrannical system controlled by scholars and rulers who argued that they were carrying out the authority granted by God in the legal field. In a similar manner to other contextualist thinkers, Shaḥrūr also put his whole trust in the collective human capacity to establish their laws.⁹² Despite being very anthropocentric, Shaḥrūr in no way rules out the role of God in the authority of law. God is positioned as the giver of limitations that all humans must obey in establishing law. Shaḥrūr, therefore, proposed a new theory, known as the *ḥudūd* theory.

⁹¹ Hallaq, *A History of Islamic Legal Theories*, 214-231.

⁹² Saeed and Akbar, "Contextualist Approaches and the Interpretation of the Qur'ān," 527.

In Shaḥrūr's view, the literalist and utilitarian paradigms are no longer relevant to the demands and context of modern times. In history, these paradigms emerged regarding the needs of the relevant times. As pointed out by Sami Zubaida, although the legal authority at that time was theoretically held by the scholars and detached from the rulers (*amīrs* and *sultans*), in practice, the majority of scholars turned out to support the interests of the rulers who mostly exercised their power tyrannically.⁹³ The paradigms in Islamic disciplines include the traditional *uṣūl al-fiqh* discipline which emerged in the past, especially during the Umayyad caliphate⁹⁴ and the Abbasid caliphate.⁹⁵ Both caliphates were very tyrannical in their nature and did not accommodate themselves to democratic aspirations, let alone civil liberties.⁹⁶ In Shaḥrūr's view, one tyrannical feature in the discipline of *uṣūl al-fiqh* is indicated in the concept of *ijmā'* that has been considered a mature source of law since the era of the Umayyad caliphate. He states that *ijmā'* overrides the democratic aspect of law because it recognizes the hegemony of particular scholars, who constitute only a tiny part of the whole community.⁹⁷ This is the reason why legal institutions were not established at that time. The legislative power, therefore, was individually held by these scholars. Shaḥrūr criticizes this tyrannical paradigm of the Islamic sciences in almost all of his works and proposes the establishment of civil supremacy and democracy.

Shaḥrūr's suspicion of traditional *uṣūl al-fiqh* can be justified based on historical facts. History shows that from the death of the

⁹³ Sami Zubaida, *Law and Power in the Islamic World* (New York: I. B. Tauris, 2003), 118; Please compare with Patricia Crone and Martin Hinds, *God's Caliph: Religious Authority in the First Century of Islam* (Cambridge: Cambridge University Press, 1986); Hallaq, *Authority, Continuity, and Change in Islamic Law* (New York: Cambridge University Press, 2001).

⁹⁴ Established in 661 CE and overthrown in 750 CE.

⁹⁵ Established in 750 CE and ended in 1258 CE.

⁹⁶ Regarding the tyrannical phenomenon in this pre-modern Islamic scientific system, H.A.R. Gibb wrote: "Islam has long been described as a "totalitarian" religion. However, all religious ideas that shape the imaginative view and content of human thought and determine human actions based on human will are potentially or principally totalitarian. These ideas should seek to apply their own standards and rules regarding all social activities and institutions from the level of elementary school to the level of law and government...." Gibb, *Aliran-aliran*, 141-142.

⁹⁷ Shaḥrūr, *Dirāsah Islāmiyyah*, 18-19.

Prophet Muḥammad on *Rabīʿ al-awwal* 12, 11 AH/June 8, 632 CE to the assassination of ʿAlī ibn Abī Ṭālib in 41/661, the republic form of government was implemented by Muslims to govern their country, marked by the fate of the country that was determined by many people or councils. However, from Muʿāwiyah ascended the throne on *Rabīʿ al-awwal* 24, 41 AH (July 30, 661 CE)⁹⁸ to the defeat of al-Muʿtaṣim, the last caliph of the Abbasids (due to the attack of Hulagu Khan, a Mongol ruler, in 656/1258), the form of government changed to monarchy. It can be observed that the period of the implementation of the monarchy form of government that tended to be tyrannical was five hundred ninety-seven years. Meanwhile, the period for implementing the republic form of government was very short, around 29 years. It, therefore, is clear that the traditional *uṣūl al-fiqh* discipline (that was first conceived by al-Shāfiʿī and later improved by key figures in *uṣūl al-fiqh* like al-Qāḍī ʿAbd al-Jabbār, Abū l-Ḥusayn al-Baṣrī, al-Juwaynī, and al-Ghazālī) developed in the socio-political context of the dynasties that tended to be tyrannical and did not accommodate to democratic aspirations.

Shaḥrūr’s comments regarding al-Shāfiʿī are an ideological criticism of the dominance of the literalist paradigm in the traditional *uṣūl al-fiqh* discipline that has supported the hegemony of the tyrannical system in the socio-political context of the Muslim world during the period between 41/661 and 656/1258. After performing ideological criticism, Shaḥrūr offers a new scientific-historical method. He considers that the literalist paradigm proposed by al-Shāfiʿī has experienced an anomaly, a protracted crisis, and even a severe failure that made this paradigm an ossified ideology. To overcome this crisis, Shaḥrūr proposes a new paradigm that will become an essential solution in the field of *uṣūl al-fiqh*, namely, the liberal paradigm with the scientific-historical method.

The scientific-historical method is Shaḥrūr’s distinctive approach in the discipline of *uṣūl al-fiqh*. This method views the Qurʾān as the universal source. The Qurʾān should be perceived based on a scientific premise (*ʿarḍiyyah ʿilmiyyah*; *ʿarḍiyyah maʿrifiyyah*), and Shaḥrūr prefers to state this with the term “scientific background” that

⁹⁸ Hugh Kennedy, *The Prophet and the Age of Caliphates* (New York: Longman Inc., 1991), 88.

exists at the time. The scientific background at the time of the Prophet Muḥammad and the Companions in the Arabian Peninsula in the first century AH (7th CE) is very little compared to the scientific premises, rapid developments, or technological discoveries of the current time. Every scientific achievement and hypothesis will inevitably provide a more accurate understanding of the verses of the Qur'ān.⁹⁹ In a modern society where scientific achievements are advancing rapidly, the scientific-historical method is very important in creating modern Islamic law in Shaḥrūr's view.

5. Scientific-Historical Method and The Context of the Modern Nation State

In *Dirāsah Islāmiyyah mu'āṣirah*, Shaḥrūr underlines the interest in the dominance of the tyrannical political system entrenched in the traditional Islamic *fiqh* paradigm that includes the traditional *uṣūl al-fiqh* discipline. In his view, all this time, *fiqh* (jurisprudence), as well as *tafsīr* (exegesis), *ḥadīth* (prophetic narration), and *'aqīdah* (belief and creed), have been established under the auspices of a tyrannical political institution (*mu'assasat al-istibdād al-siyāsī*), which has been entrenched since the Umayyad caliphate until the present time.¹⁰⁰ One form of the influence of political tyranny on *fiqh* is the recognition of *ijmā'* as a source of law. The acceptance of *ijmā'* as a canonical source prevented a judge from applying the principle of *shūrā* (democracy) in the legal field. This can be visible in the Muslim world, which includes the contemporary Arab world. The judicial authority supposed to be a democratic institution has not performed its real function.¹⁰¹ Additionally, the political constellation at that time did not necessitate the construction of a constitution (*dustūr* or *al-qānūn al-asāsī*) as the most essential part of life as a nation and a state.

In the life of a modern nation and state, tyranny, Shaḥrūr states, is taboo because a state is an institution that gains legitimacy from its *dustūrs*. (a set of principles and rules governing the structure of a state).¹⁰² In modern life, *dustūrs* give legitimacy to all state institutions

⁹⁹ Shaḥrūr, *al-Kitāb wa-l-Qur'ān*, 235, 280.

¹⁰⁰ Shaḥrūr, *Dirāsah Islāmiyyah mu'āṣirah*, 18-19.

¹⁰¹ *Ibid.*, 23.

¹⁰² *Ibid.*, 200.

and guarantee the principle of general freedom for all citizens.¹⁰³ That is why the construction of *dustūr* is a necessity. *Dustūrs* as a legal basis is from *qānūns*. *Qānūns* are a collection of laws that regulates the daily activities of state institutions, people, and the relationship of one individual to another. While *qānūns* are just ordinary laws, *dustūrs* are considered a constitution.¹⁰⁴ However, it is important to note that since *qānūns* derive their legitimacy from *dustūrs*, they cannot violate *dustūrs*. *Dustūrs*, therefore, derive their legitimacy from people. *Qānūns* should proceed under *dustūrs* even though they may be detailing *dustūrs* or conducting legal opinions against *dustūrs*.¹⁰⁵

Although al-Turābī called for the renewal of *uṣūl al-fiqh* and even promised to establish a detailed theory at a later date, he has not formulated the intended theory.¹⁰⁶ Nonetheless, Shaḥrūr's *ḥudūd* theory has responded to al-Turābī's call, so it is an answer to al-Turābī's criticism of the discipline of *uṣūl al-fiqh* that al-Turābī considers having methodological ambiguity (*al-ibhām al-manhajī*). Al-Turābī has recommended the discipline of *uṣūl al-fiqh* to be re-deconstructed by uniting transmitted disciplines (*naql* including the Qur'ān and Sunnah) with the rational sciences that are developing all the time as a result of continuous scientific research.¹⁰⁷ However, he has not concretely realized his recommendation.¹⁰⁸ Shaḥrūr's *ḥudūd* theory can be used as a medium to unify the transmitted disciplines with the rational sciences as proposed by al-Turābī. The *Ḥudūd* theory is a concrete mechanism to provide solutions to the methodological problems in *uṣūl al-fiqh* and an alternative solution to the legal, methodological impasse in the traditional *uṣūl al-fiqh* discipline.

¹⁰³ *Ibid.*

¹⁰⁴ *Ibid.*

¹⁰⁵ *Ibid.*

¹⁰⁶ Hallaq, *A History of Islamic Legal Theories*, 226; This expression by Hallaq is based on his study of two works by al-Turābī, namely, *Tajdīd uṣūl al-fiqh al-Islāmī* (Beirut & Khartoum: Dār al-Fikr, 1980) and *Tajdīd al-fikr al-Islāmī* (Rabat: Dār al-Qarāfī li-l-Nashr wa-l-Tawzī', 1993). However, it is true that al-Turābī has not provided specific recommendations for the renewal of the *uṣūl al-fiqh* discipline that he initiated.

¹⁰⁷ Al-Turābī, *Qaḍāyā l-tajdīd*, 191; Please compare with: al-Misāwī, "Qaḍāyā l-tajdīd," 200.

¹⁰⁸ Hallaq, *A History of Islamic Law*, 226, 230.

In the present time, Shaḥrūr's scientific-historical method has a vital position and plays an important role. This paradigm is very helpful in making Islamic law more dynamic and updated in an ever-evolving era of life. The *ḥudūd* theory, however, as a new method, will result in revolutionary changes emerging from the old *uṣūl al-fiqh* conceptions. Among the impacts of using the scientific-historical method is the redefinition of *ijtibād* and *mujtabid*.

Referring to the postulate that Islam is an international and universal religion, Shaḥrūr proposes a new, original definition of *ijtibād*. In his view, *ijtibād* is a collective mechanism to understand the legal content of the verses so that the boundaries or limits fixed by God are revealed by using modern knowledge systems and formulating laws within the scope of the boundaries through national representative institutions.¹⁰⁹ This is the definition of Shaḥrūr's *ijtibād* concept. He has not explicitly explained this definition, but it is understood from the way he perceives the Qur'ān, the Sunnah of the Prophet, *qiyās*, *al-maṣlaḥah al-mursalah*, and *ʿurf* (custom). It may be concluded that Shaḥrūr's *ijtibād* process has two levels: understanding the legal content of the verses in the context of the revealed boundaries by God and creating laws within the scope of the boundaries fixed by God through the national representative institutions. Shaḥrūr states that *ijtibād* within the scope of boundaries is the basis of *tashrīʿ* in Islam, and people should not violate boundaries to perform *ijtibād*.¹¹⁰ *Ḥudūd*, for Shaḥrūr, is a collective measure to comprehend the legal content of the verses so that the boundaries are revealed by using modern knowledge systems and laws can be established within the scope of the boundaries.¹¹¹ It can therefore be concluded that in Shaḥrūr's view: (1) *Ijtibād* cannot be performed individually but should be performed collectively. (2) *Ijtibād* can only be performed by scholars in the religious disciplines, natural, social, and humanities sciences. (3) The product of *ijtibād* should be no longer *fatwā* but legislation. (4) *Ijtibād* cannot be separated from the national representative institutions because only

¹⁰⁹ *Ibid.*, 55-56, 60, 193, 207-208, 214; Shaḥrūr, "The Divine Text and Pluralism in Muslim Societies," <http://www.quran.org/shahroor.htm>, accessed on April 22, 2002.

¹¹⁰ Shaḥrūr, *al-Kitāb wa-l-Qur'ān*, 473.

¹¹¹ *Ibid.*, 55-6, 60, 193, 207-8, 214; Shaḥrūr, "The Divine Text and Pluralism in Muslim Societies."

these institution has the authority to establish laws. This new conception of *ijtibād* automatically results in a change in answering the question of who has the right to perform *ijtibād* or, in other words, who *mujtabid* is.

Considering that *ijtibād* should be performed by national representative institutions (parliament or Representative Council), all members of the parliament are called *mujtabid* by Shaḥrūr. The status of *mujtabid* is also conferred to scientists in all fields of science including humanities, religious, natural, and social sciences, and experts who become members of the consultative commission (*al-lijān al-istishāriyyah*) and who accompany the representative institutions (*al-majālis al-niyābiyyah wa-l-baladiyyah*) by providing statistical data and scientific evidence. In Shaḥrūr's *ijtibād* concept, *muftīs* (religious scholars) are no longer considered *mujtabid* unless they become members of the consultative commission that accompanies the representative institutions. In his approach, the role of *fatwā* institutions has been replaced by polls and the national parliament, which uphold freedom of opinion, freedom of the press, and the existence of opposition (*al-mu'āraḍah*).¹¹² Indeed, Shaḥrūr's approach is still problematic for some Muslim countries, such as Saudi Arabia, since the *fatwā* institution works with the political authorities and its *fatwās* have an opportunity to be used as a law.¹¹³ However, Shāḥrūr's method will benefit other democratic Muslim countries (e.g., Indonesia has strong intentions to implement Islamic law in the context of a modern and democratic state without any tension). Shaḥrūr states:

I have studied the principles of jurisprudence, and I can say that we do not need *muftī*. Instead, a nation controlled by *ḥudūd* fixed by Allah will be able to perform the legislative process through parliament.¹¹⁴

¹¹² Shaḥrūr, *Naḥwa uṣūl jadīdah*, 208.

¹¹³ Emine Enise Yakar, "The Influential Role of the Practice of *Iftā'* in Saudi Politico-Legal Arena," *Manchester Journal of Transnational Islamic Law Practice* 16, no. 1 (2020), 35-61; Emine Enise Yakar and Sumeyra Yakar, "The Symbolic Relationship between 'Ulamā' and Umarā' in Contemporary Saudi Arabia," *Middle Eastern Studies* 13, no. 1 (2021), 23-46.

¹¹⁴ Shaḥrūr, "Reading the Religious Text: A New Approach," <http://www.islam21.net/pages/keyissues/key1-7.htm>, accessed on April 21, 2001.

From Shaḥrūr's point of view, the *mujtabids* can be categorized into two groups: (1) scholars from various disciplines who become members of the consultative commission (*al-lijān al-istishāriyyah*) and (2) members of national representative institutions (*al-majālis al-niyābiyyah wa-l-baladiyyah*). Therefore, if extremely knowledgeable *faqīhs* and *muftīs* are not willing to join the consultative commission, they cannot be called *mujtabids*. Considering the context of a modern nation-state that tends to practice the principles of deliberative democracy¹¹⁵ (in which the principle of deliberation must be applied in the structure of a modern state), the scientific-historical paradigm is very relevant to be practiced. If a country has implemented deliberative democracy, then a liberal paradigm with the scientific, historical method is necessary. During periods of the Prophet Muḥammad and the first four caliphs (*al-khulafā' al-rāshidūn*), the application of a scientific, historical method in the discipline of *uṣūl al-fiqh* already existed. The 29-year duration was indeed a period of deliberative democracy, but unfortunately, the discipline of *uṣūl al-fiqh* was not yet established at that time.

Conclusion

Shaḥrūr's scientific-historical method holds a very significant role in developing a contemporary *uṣūl al-fiqh* discipline by helping to establish Islamic laws that are dynamic and realistic to meet the necessities of modern times. There are at least three reasons underlying this conclusion. In the first instance, this method follows the principles of democracy, considering that it treats all scientists/scholars/experts (regardless of their field of knowledge) equally in establishing modern Islamic law. In the second instance, this method follows the historical context of modern society, which upholds democracy and opposes tyranny. In the last instance, this method follows the historical context of the modern state structure that upholds the constitution and modern state institutions that include representative institutions (e. g., parliament). Taking into the

¹¹⁵ Daniel Layman, "Robust Deliberative Democracy," *Critical Review* 28, no. 3-4 (2016), 494-516, <http://dx.doi.org/10.1080/08913811.2016.1264161>; Marit Hammond, "Deliberative Democracy as A Critical Theory," *Critical Review of International Social and Political Philosophy* 22, no. 7 (2018), 787-808, <https://doi.org/10.1080/13698230.2018.1438333>.

three points consideration, one may assert that Shaḥrūr's scientific-historical method is a very promising approach to developing a contemporary *uṣūl al-fiqh* discipline and providing a modern Islamic law that is relevant to the demands of modern societies. Thus, applying the achievements of modern science and bodies of knowledge in various fields to construct Islamic law will contribute to the significant progress to build a dynamic of *uṣūl al-fiqh*.

However, the research still has limitations and does not provide a concrete definition of Shaḥrūr's *ḥudūd* theory that guides the *mujtabid* in conducting *ijtihād*. In addition, this research has not given examples of the use of the scientific-historical method to create a modern Islamic law that can address specific concrete societal issues. For this reasons, further studies may focus on the definition of Shaḥrūr's *ḥudūd* theory and the implementation of his scientific-historical method in contemporary legal issues that include human rights, political democracy, economic activities, civil society, corruption eradication, and law enforcement.

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THE EFFECTS OF MEASURES TAKEN IN THE SCOPE OF THE ISLAMIC PRICE POLICY ON INVESTMENT, PRODUCTION, EMPLOYMENT, AND STABILITY

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Abstract

Price, investment, production, and employment are among the most important elements of economic structure, and intervention in one of these will affect all other elements. A well-functioning economic structure represents the harmonical and balanced collaboration of all financial factors. Price has decisive power over other elements of the economy. Investment, production, and employment plans are generally closely associated with prices because they are made with a profit index. Although the financial principles of Islam emphasize earnings in a legitimate (*ḥalāl*) manner, its price policy does not directly intervene in the price-determining process.

Various price policies and different economic systems have been followed and applied throughout the history of economics. In the field of economics, some systems favor unlimited freedom through sanctifying the individual and capital, while others, such as capitalism, do not recognize any rules. Also, some systems ignore private

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property without a sense of justice for the community, while mixed systems combine some of these factors. However, none of these economic structures gain accomplishment because of injustice and imposed methods contrary to human nature. Furthermore, they were unable to solve problems of economic origin.

Islamic economics and price policy are fundamentally different from other systems. First, Islamic economics carries the inherent religious characteristics of Islam. It centers on justice and legitimacy and has made the moral principles of religion dominant in economics. The Prophet Muḥammad was the first person to transfer the economic principles of Islam from theory to practice. In this sense, the Medina bazaar had deep meanings beyond being an ordinary or local market. In Islamic economics, instead of directly intervening in prices, the Prophet abolished methods such as profiteering, black markets, prevention (*talaqqī l-rukbān/jalb*), brokerage, deception, cheating, and speculation (*najash*), which led to unlawful profits. Instead, he advocated principles based on legitimacy, established a system relying on supply-demand balance, and organized the market with Islamic moral values. The new economic principles prioritized fair competition, equal opportunity, fair income distribution, and sharing. Islamic finance model, therefore, embraces the principles of a free-market economy. However, there are clear differences between the free-market principles as understood by Islam and the free-market principles that dominate present-day capitalism. First, Islam does not accept destructive competition, any form of monopolization, or unlimited freedom of production and consumption. It also does not attribute economic value to some profits, such as interest and gambling, and instead labels them illegitimate and prohibited (*ḥarām*). Although Islam adopts the principles of a free market economy, it does not allow arbitrary decisions. For this reason, it establishes a realistic price policy without artificial interventions and aims to dominate the economy with preventive measures. The system does not allow the establishment of privileged classes that effortlessly earn money regarding the endeavor of other people.

The measures taken in the scope of price policy affect prices and other elements. Investment, directly associated with prices, has significantly contributed to preserving and improving the balance between production and employment. Sustainable investment, production, and employment are ensured by restraining stocking and high prices that reduce consumption, preserving the supply of goods, price stability, and purchasing power. The balance between production, consumption, investment, and employment has been preserved as an indicator of economic stability and development in this respect. Another privileged aspect of the Islamic price policy is

the inspection of economic elements in integrity with an effective control mechanism called *hisbah*. The requirements of appointed *muhtasibs*, who must be competent in understanding the calculations and calibrations, show the seriousness and importance given to economic stability in Islam.

Key Words: Islamic economics, price, investment, production, employment, control (*hisbah*).

Introduction

Concepts such as production, consumption, employment, price, cost, and shopping are inseparable parts of the economic structure, and any intervention in one of these affects the entire economic structure. Religions and civilizations throughout history have closely followed the price issue and set certain principles because changes in the economic structure and elements deeply affect people and societies.

Islam regulates every aspect of life and has not neglected the economic field. Many verses of the Qurʾān and Sunnah are related to provisions that shape the field of economics. Since the first period of Islamic law (*fiqh*), the provisions handled through various legal sources and chapters continue to be discussed in parallel with economic developments. For example, Kallek addressed the issues of “a fixed price (*narkh*), profit, *hisbah* and state-market relations” in articles and independent studies and revealed the relevant provisions along with the changes that took place in its historical course.¹ In his article, Topal evaluated commercial regulations in a different category from those in classical sources.² Turan’s article discussed the issue of

¹ Cengiz Kallek, “Müzayede,” in *Türkiye Diyanet Vakfı İslam Ansiklopedisi (DİA)*, XXXII, 236-238; id., “Narh,” in *Türkiye Diyanet Vakfı İslam Ansiklopedisi (DİA)*, XXXII, 387-389; id., “Devlet Piyasa İlişkisi,” in *Bütün Yönleriyle Asr-ı Saadette İslam*, ed. Vecdi Akyüz (Istanbul: Ensar Neşriyat, 2007), III, 343; id., “Hisbe,” in *Türkiye Diyanet Vakfı İslam Ansiklopedisi (DİA)*, XVIII, 133-134; id., “Narh Konusuna Yeniden Bakış,” *İslam Hukuku Araştırmaları Dergisi* 7 (2006), 257-276; id., “İhtikar,” in *Türkiye Diyanet Vakfı İslam Ansiklopedisi (DİA)*, XXI, 560-565.

² Şevket Topal, “İslam Hukukunda Alım Satım Piyasasına Yönelik Bazı Düzenlemeler,” *Din Bilimleri Akademik Araştırma Dergisi* 5, no. 4 (2005), 211-228.

economic competition regarding price stability.³ Öztürk focused directly on Islamic price policy and deeply analyzed financial practices in the Ottoman period. After a short introduction, he carefully scrutinized the price policies during the Ottoman period in terms of their origin, implementation, validity, and practicality.⁴ However, these studies did not mention the market's investment, production, and employment dimensions. At this point, it is appropriate to analyze the implementation of the measures taken within the scope of Islamic price policy regarding investment, production, and employment. The article, therefore, elucidates the disadvantages of direct intervention in market prices without taking the necessary precautions and evaluates the influence of fixed prices determined by the supply-demand balance on economic stability and development.

1. General Understanding of Economics in Islam

Islam considers all economic activities within the principles of revelation. All economic actions, including the fulfillment of requirements, the scope of needs, and the legal procedure of financial transactions, must be performed within the framework of revelation. The fulfillment of needs as a legitimate action needs to be conducted in the scope of permissibility (*ḥalāl*) and cleanness.⁵ Humans, as needy creatures,⁶ constantly ask for things from God.⁷ The provisions of Islam orders the fulfillment of needs within a fair economic structure based on mutual consent⁸ and legitimate labor.⁹ For this reason, a Muslim must think about the legitimacy of profit as much as (or even more than) making a profit in all economic activities.¹⁰

³ M. Fatih Turan, "İslam Hukuku Açısından Yıkıcı Fiyat Uygulaması," *Atatürk Üniversitesi İlahiyat Fakültesi Dergisi* 43 (2015), 78-103.

⁴ Mustafa Öztürk, "Osmanlı Dönemi Fiyat Politikası ve Fiyatların Tahlili," *Bellekten* 55, no. 212 (1991), 87-100.

⁵ Q 2:168.

⁶ Q 35:15.

⁷ Q 55:29.

⁸ Q 53:39.

⁹ Q 4:29.

¹⁰ Q 2:168, 172.

Economic processes are as old as human history and have had to cover basic needs such as nutrition, shelter, and clothing. Economic systems have been institutionalized and shaped by increasing needs and emerging problems. Some of these systems were individual-centered such as capitalism, while some were society-centered such as communism. And some were mixed systems. However, humanity could not find peace because justice was not at the center of these systems. Capitalism, which favors unlimited freedom,¹¹ and communism, which ignores private property,¹² tried to make the economic structure dominate with methods far removed from justice and contrary to human nature.

Setting a price is closely related to other factors because it directly affects the vitality, stability, and development of economies. Attractive and profitable prices have been among the most important determinants of world trade throughout history. Globally, economic systems have always determined profit-oriented procedures and principles within the framework of their worldview. Since many financial systems other than Islam do not rely on justice, they have caused economic problems rather than solutions.

For example, capitalism, as far from religious and moral aspects, shapes the economic conditions of the present time.¹³ Since capitalism has always focused on profitable prices and financial growth in a commercial area, it does not pay attention to principles or morality. For this reason, the profit motive has been expressed as “the fuel of the capitalist machine.”¹⁴ The history of colonialism, which was built on the blood of countless innocents and has caused unforgettable humanitarian dramas, is the greatest proof of this truth.¹⁵ The confession of the historian of capitalism Sombart (1863-

¹¹ Murat Çetin, *İktisadi Sistemler* (Istanbul: İstanbul Üniversitesi Açık ve Uzaktan Eğitim Fakültesi, 2010), 28.

¹² *Ibid.*, 179.

¹³ Hayrettin Karaman, *İş ve Ticaret İlmihali* (Istanbul: İz Yayıncılık, 2012), 338; Temel Hazıroğlu, *Katılım Ekonomisi* (Istanbul: İz Yayıncılık, 2017), 88-91.

¹⁴ Şevki Özgener, “Ekonomik Sistemler ve Ahlak,” *Süleyman Demirel Üniversitesi İktisadi ve İdari Bilimler Fakültesi Dergisi* 5, no. 1 (2000), 178.

¹⁵ Metin Ünver, *Sömürgecilik Tarihi* (Istanbul: İstanbul Üniversitesi Açık ve Uzaktan Eğitim Fakültesi Tarih Lisans Programı, 2010), 7-10; Ahmet Gündüz, “Sömürgecilik Kavramı ve Sömürgeci Devletlerin Uyguladıkları Taktikler: Ortadoğu Örneği,” *Tarih Okulu Dergisi* 9, no. 25 (2016), 764-765.

1941) is important in terms of showing the source of the Western economy and civilization when he states: “We have become rich because races and nations have completely died for us, the continents have become desolate for us.”¹⁶ For this reason, capitalism, which is always adjusted to earn more, and communism, which enslaves all individuals for its system, have been the source of problems rather than the solution to economic problems. Regarding the present concepts of modernity, governments with technological and economic superiority aim to continue their colonial actions, which are incompatible with humanity’s interests.¹⁷

As a profit-oriented method, capitalism involves some disadvantages, including waste of resources, excessive consumption, environmental pollution, injustice in income distribution, low wages, unemployment caused by developing technology, and the abstraction of the trade from religious and moral principles.¹⁸ Although the communist system declares war against original capital and private property to eliminate unemployment, it destroys the free competition with its centralized and imposed method and causes unforeseen economic and social problems.¹⁹

It is important to note that humanity has solutions and alternatives. The purpose of the present paper is to show that Islamic economics has the power to offer the most realistic solutions to the problems caused by capitalism and communism. Considering the emerging financial problems and the wide importance of the subject, it is obvious that previous studies are insufficient. Islamic measures, therefore, pay attention to the determination of price, investment, production, and employment aspects. It can be assumed that economic development, especially price stability, sustainable

¹⁶ Ahmet Tabakoglu, “İktisat ve Ahlak,” in *İnsan, Ahlak ve İktisat*, ed. Musa Kâzım Arıcan, Muhammed Enes Kala, and Yunus Emre Aydınbaş (Ankara: Türkiye Yazarlar Birliği Yayınları, 2018), 65.

¹⁷ Filiz İrge, “Gelişmiş Kapitalizm Eşliğinde Yeni Sömürgecilik,” *Trakya Üniversitesi Sosyal Bilimler Dergisi* 6, no. 1 (2005), 49-51, 76.

¹⁸ Özgener, “Ekonomik Sistemler ve Ahlak,” 179-182; Deniz Altınbaş, “İnsanlığa Karşı Suçlar ve Yeni-Sömürgecilik,” *Uluslararası Suçlar ve Tarih* 11, no. 12 (2011), 37, 53-54.

¹⁹ Özlen Hiç, “Ekonomik Sistemler ve Rejimler,” *Journal of Emerging Economies and Policy* 2 (2017), 124-136; Özgener, “Ekonomik Sistemler ve Ahlak,” 183-186.

economy, and development, is only possible with an integrationist approach.

2. An Overview of Islamic Price Policy

Islamic financial system aims to establish judgmatical and natural standards for trade and to preserve its validity for Muslims in every era. In economic markets where the state is considered an organizer, prices are adjusted according to free market conditions and fair competition.²⁰ Islamic economics is far from a purely profit-oriented system and unrealistic price policies. The financial provisions of Islam offer permanent and natural solutions rather than artificial and temporary measures. The solutions regulate the economic structure, which includes prices, investment, production, and employment, and become the source of trust and stability. These principles also prepare the most suitable ground for “sustainable development and economy” in the present day.²¹

The Islamic understanding of economics and price policy were put into practice for the first time in the Medina market under the guidance of the Prophet. Islam ended many nonprincipled market practices of Jewish and polytheist peoples.²² Islamic provisions prohibit particular financial transactions that provide unilateral gains and lead to destructive competition such as interest,²³ black market, usury, and profiteering (*ihtikār*) since they are considered sources of cheating, corruption, and injustice.²⁴ For example, unfair competition is considered the reason for destructive price practices.²⁵ With these preventive measures, Islam aimed to solve problems related to price

²⁰ Fatih Kazancı, “Serbest Piyasa Ekonomisi ve İslam Ekonomisi Üzerine Karşılaştırmalı Bir Analiz,” *Uluslararası İslam Ekonomisi ve Finansı Araştırmaları Dergisi* 2, no. 3 (2016), 162.

²¹ M. Harris Jonathan, “Basic Principles of Sustainable Development” (Working Paper:, Massachusetts: Tufts University, 2000), 4-8; Onur Yeni, “Sürdürülebilirlik ve Sürdürülebilir Kalkınma: Bir Yazın Taraması,” *Gazi Üniversitesi İktisadi ve İdari Bilimler Fakültesi Dergisi* 16, no. 3 (2014), 183-186.

²² Murat Sarıcık, “Cahiliye Döneminde Arap Yarımadası Panayırları,” *Süleyman Demirel Üniversitesi İlahiyat Fakültesi Dergisi* 31 (2013), 112-120.

²³ Q 2:275.

²⁴ Q 4:29; Q 83:1-6.

²⁵ Turan, “İslam Hukuku Açısından Yıkıcı Fiyat Uygulaması,” 80.

instability, production-consumption imbalance, investment, and employment.

Islam also abolishes the monopoly, which prevents free competition and fuels artificial price increases by not allowing unjust profits other than labor.²⁶ Islamic provisions evaluate economic initiations in integrity with the dimensions of investment, production, and employment rather than limited elements such as price and finance.

Although Islam prioritized the formation of prices regarding market conditions, the system paid attention to inspection. Commercial experiences show that in an uncontrolled market, competition disappears, monopolization and stocking increase, and stability deteriorates²⁷, which causes serious losses in production, investment, and employment. No one wants to invest and produce in an environment where the future is uncertain and unstable. The lack of necessary investment, production, and employment has been considered the source of high inflation, high cost, unemployment, poverty, and many social problems.²⁸

The Prophet implemented a measure in the scope of the price policy that is considered the driving force of investment, production, and employment without compromise. These inspections were conducted by special officials called *muhtasib* in later times.²⁹ The *hisbah*, the inspiration for the present-day municipal police, initially only conducted market inspections but became an inspection institution covering all areas of social life over time.³⁰ Stable inspections prevented artificial price increases such as interest, profit, and the black market and forestalled fluctuations in investment, production, and employment.

²⁶ Q 53:39.

²⁷ Tabakoğlu, "Osmanlı Ekonomisinde Fiyat Denetimi," *İstanbul Üniversitesi İktisat Fakültesi Mecmuası* 43 (1987), 112.

²⁸ Aykut Bedük, "Güçlü ve Büyük Türkiye İçin Üretim, İstihdam ve İşsizlik Politikaları," *SÜ İİBF Sosyal ve Ekonomik Araştırmalar Dergisi* 4, no. 7 (2004), 40.

²⁹ Muhammed Hamidullah, *İslam Peygamberi*, trans. Mehmet Yazgan (İstanbul: Beyan Yayınları, 2015), 801; İbrahim Sarıçam, *Hız. Muhammed ve Evrensel Mesajı* (Ankara: Diyanet İşleri Başkanlığı Yayınları, 2002), 310; Kallek, "Hisbe," 133, 134.

³⁰ Kallek, "Hisbe," 140.

In addition to auditing the market, increasing the supply of goods was necessary to ensure price stability. The second Caliph, ‘Umar ibn al-Khaṭṭāb (d. 23/644), supported measures to prevent excessive price increases. He planned to increase the supply of goods with imports from Syria, Palestine, and Egypt to reduce the increased prices because of famine.³¹

3. Intervention in Prices in Islamic Economics: *Narkh*

In the dictionary, *narkh/tas‘ir* means setting a price to limit the selling price of a good.³² As a legal term, it means: “[d]etermining prices and setting an upper limit for some basic needs by the head of state or the officials appointed by him regarding the public interest.”³³ Having professional commercial experience, the Prophet did not directly intervene in prices but interfered in the causes that negatively affected prices since he knew the problems resulting from intervention in prices.³⁴ As a result of the famine in the 8th year of the Hegira, prices in Medina were very high. Upon the request of the Companions of the Prophet to intervene in prices, the Prophet said: “... Indeed, it is only Allah who determines the prices, gives famine and abundance, and provides sustenance. I do not want to meet my Lord when He asks me for an injustice that I have done to the property and life of any of you.”³⁵ In another narration, the Prophet said: “Maybe I pray to Allah about this.” and “Maybe it is Allah who makes the prices cheaper and more expensive.”³⁶

³¹ Kallek, “İhtikâr,” 563; Turan, “İslam Hukuku Açısında Yıkıcı Fiyat Uygulaması,” 87.

³² Jamāl al-Dīn Muḥammad ibn Mukarram Ibn Manẓūr, *Lisān al-‘Arab* (Beirut: Dār Şādīr, 1954), IV, 365.

³³ Muḥammad ibn ‘Ali ibn Muḥammad al-Shawkānī, *Nayl al-awṭār fī sharḥ Muntaqā l-akbbār* (Beirut: Dār İhyā’ al-Turāth al-‘Arabī, n.d.), V, 248; Mehmet Erdoğan, *Fıkıh ve Hukuk Terimleri Sözlüğü* (Istanbul: Ensar Neşriyat, 2016), 447; Kallek, “Narkh,” 387-389.

³⁴ Kasım Şulul, *Ana Hatlarıyla Sıyer-i Nebi* (Istanbul: Ensar Neşriyat, 2017), 113; Badr al-Dīn Abū Muḥammad Muḥammad ibn Aḥmad ibn Mūsá ibn Aḥmad ibn Ḥusayn al-‘Aynī, *Umdat al-qārī sharḥ Şaḥīḥ al-Bukhārī* (Beirut: Dār İhyā’ al-Turāth al-‘Arabī, n.d.), I, 82.

³⁵ Abū Dāwūd, “al-Buyū‘,” 49; al-Tirmidhī, “al-Buyū‘,” 73; Ibn Mājah, “al-Tijārah,” 27; al-Dārimī, “al-Buyū‘,” 13.

³⁶ Al-Shawkānī, *Nayl al-awṭār*, V, 248.

In the free market economy, the principle of nonintervention in prices is among the most important rules of modern economics.³⁷ Unlike the present day, the Medina market is perhaps the first systematic free market practice in history. The Islamic free market practice differs from the present-day free market concept in many ways, such as destructive competition, monopoly, excessive individualism, preference for individual interests over public interests, speculative activities, unlimited production, and unlimited consumption.³⁸ The free market principles applied in the Medina market can be a role model in terms of being implemented centuries ago and prioritizing public interest as well as religious and moral values. The ‘free market’ principles applied in the present day were first based on the principles of Adam Smith, who lived in the 17th century.³⁹

Islamic schools of law (*madhhabs*) did not support the implementation of a *narkh*, a fixed price, for a functioning market under normal conditions.⁴⁰ The scholars (*fuqahā'*) claimed that *narkh* undermines the principle of consent by referring to the verse: “O you who believe! Do not use your goods unjustly among yourselves, except for trade based on mutual consent...”⁴¹ The Ḥanafī scholars of the first period evaluated the process as a kind of

³⁷ Çetin, *İktisadi Sistemler*, 29; Kazancı, “Serbest Piyasa Ekonomisi ve İslam Ekonomisi Üzerine Karşılaştırmalı Bir Analiz,” 162; Şennur Sezgin, “Piyasa Ekonomisinin Şartları ve Özelleştirme,” *Akademik İncelemeler Dergisi* 5, no. 2 (2010), 155.

³⁸ Kazancı, “Serbest Piyasa Ekonomisi,” 175.

³⁹ Henry Hazlitt, “Piyasa Ekonomisinin ABC’si,” trans. Fuat Erdal, *Piyasa* 6-7 (2003), 11-15.

⁴⁰ Muwaffaq al-Dīn ‘Abd Allāh ibn Aḥmad Ibn Qudāmāh al-Maqdisī, *al-Mughnī* (Cairo: Maktabat Ibn Taymiyyah, 1970), IV, 239; Abū l-Ḥasan ‘Alī ibn Muḥammad al-Māwardī, *al-Aḥkām al-sultāniyyah wa-l-wilāyāt al-dīniyyah* (Cairo: Muṣṭafā al-Bābī al-Ḥalabī, 1960), 256.

⁴¹ Q 4:29.

prevention (*ḥajr*)⁴² and avoided the practice of *narkh* because of its negative influence over free will.⁴³

The flow in the Medina bazaar, established and developed in agreement with the commercial principles of revelation in the second year of the Hegira, was completely in line with Islamic principles. Solutions were sought within the principles of revelation for unexpected situations emerging in the market. For this reason, the Companions of the Prophet, who demanded *narkh* for the prices that rose in the famine in the 8th year of the Hegira, did not insist upon the statement of the Prophet: "... it is Allah who makes prices cheaper and more expensive." In addition, there was no need for *narkh* in the early periods since both spiritual and moral values controlled the commercial experience. However, when commercial morality deteriorated and illegal activities, such as profiteering and monopolization, which prevented the natural formation of prices, became common, the state's intervention in prices became inevitable. Based on the principle of public interest (*maslahah*), Islamic schools of law considered it legitimate to set a *narkh* when prices increased by speculative and illegitimate means.⁴⁴

Regarding the principle of public interest, the *Majallah* (The Ottoman Code of Civil Law) placed a state authority to intervene in prices on a legal basis⁴⁵ with the rule that: "Possession on *ra'iyah* depends on the benefit."⁴⁶ By examining the practices of different

⁴² *Ḥajr* means forbidding a person from verbal dispositions; a person who is prohibited such dispositions is called *maḥjūr* (i.e. a banned person). In this respect, the restriction is imposed for words, not for actions. See, 'Alī Ḥaydar Khojah Amīnzādah, *Durar al-ḥukkām sharḥ Majallat al-aḥkām* (Istanbul: Maṭba'ah-i Abū l-Ḍiyā', 1912), Art.: 941.

⁴³ 'Alā' al-Dīn Abū Bakr ibn Maṣ'ūd al-Kāsānī, *Badā'i' al-ṣanā'i' fī tartīb al-sbarā'i'* (Beirut: Dār al-Kutub al-'Ilmiyyah, 2010), V, 129; 'Abd Allāh ibn Maḥmūd ibn Mawdūd al-Mawṣilī, *al-Ikhtiyār li-ta'āl al-Mukbtār* (Istanbul: Çağrı Yayınları, 1987), IV, 439; Ibn Qudāmah, *al-Mughnī*, IV, 240.

⁴⁴ Ibn Qudāmah, *al-Mughnī*, IV, 240; al-Shawkānī, *Nayl al-awṭār*, V, 248; Mohammad Nejatullah Siddiqi, *Ekonomide Devletin Rolü: İslami Bir Bakış Açısı*, trans. Faruk Taşçı (Istanbul: İktisat Yayınları, 2018), 11-13.

⁴⁵ Al-Sheikh al-Nizām al-Burhānpūrī (ed.), *al-Fatāwā l-Hindiyyah* (known as *al-Fatāwā l-Ālamgīriyyah*) (Beirut: Dār Iḥyā' al-Turāth al-'Arabī, 1980), III, 214; Muḥammad Amīn ibn 'Umar ibn 'Abd al-'Azīz al-Ḥusaynī Ibn 'Ābidīn, *Radd al-Mukbtār* (Beirut: Dār al-Fikr, 1992), V, 256, 257.

⁴⁶ *Majallah*, Art. 58.

periods, Kallek summarized the reasons and conditions that made the *narkh* mandatory:

1. Increasing the cost of goods or services so high as to harm the public at the level of exorbitant prices (*ghabn-i fāḥish*) according to the Ḥanafīs,⁴⁷

2. Expensive prices because of the speculation of manufacturers or sellers,

3. The general need for the necessary goods or services,

4. The failure of the state to cover the public interest by any method other than a compulsorily fixed price,

5. The *narkh* application does not result in the restriction of supplies,

6. As a matter of fairness, consulting the trustable specialists who are chosen among the tradesmen, traders, and financial experts,

7. Assessment of the differences in product quality and service expertise,

8. Regarding the principle that “there is no retaliation for loss or damage,” protecting the interests of both sellers and buyers and ensuring the consent of the parties by leaving a reasonable profit share,

9. That authorities have the character of justice.⁴⁸

Islam commands justice at every opportunity,⁴⁹ and also takes the necessary precautions. Islam does not approve of a price that would harm the producer and the supplier because it is based on the principle of not doing injustice to the seller and the customer and does not allow people to be put into trouble with excessively high prices.⁵⁰

An arbitrary *narkh* without justification affects supplying goods and producing and disrupts the economic order of the market.⁵¹ If the

⁴⁷ *Ghabn-i fāḥish* is a deception to an extent beyond the discretion of experts and is determined as one-twentieth in *urūd* (i.e., commercial goods), one-tenth in animals, one-fifth in *aqār* (i.e., real estate), and one-fourth or more in money. See, Ali Bardakoğlu, “Gabh,” in *Türkiye Diyanet Vakfı İslam Ansiklopedisi (DİA)*, XIII, 268-273; Erdoğan, *Fıkıh ve Hukuk Tertimleri Sözlüğü*, 151.

⁴⁸ Kallek, “Narkh Konusuna Yeniden Bakış,” 262.

⁴⁹ Q 4:58; Q 16:90.

⁵⁰ *Majallah*, Art.: 21, 22, 31, 32, 39.

⁵¹ Ibn Qudāmah, *al-Mughnī*, IV, 240.

producer and investor abandon production and investment because of the fixed price practice, disruptions and instability will be inevitable in the investment, production, and employment chain. This situation causes economic shrinkage, which leads to economic, psychological, social, and moral problems.

Since the Prophet aimed to establish commercial morality, he did not accept the demand for *narkh*.⁵² Instead, he took permanent measures that radically prevented artificial price increases. These measures contributed to maintaining the supply-demand balance, improving financial systems, and price stability. The measures were made even more effective with prohibitions of particular practices, including interest, *iḥtikār*, *talaqqī l-rukbān*, and brokerage. Since Islamic economics contributes to the preservation of individual and social morality, it is completely different from capitalist systems.⁵³

4. Major Measures Taken for Price Stability in Islam

Islam has taken measures to ensure price stability and shape investment, production, and employment. The main measures that ensure confidence and stability in the markets by preventing artificial price increases are as follows.

4.1. Prohibition of Interest (*Ribā*)

Ribā literally means increase, multiplication, development, or surplus stipulated for one party in mutual agreements, and is defined in *fiqh* terminology as follows: “When two things of the same type and quantity are exchanged for one another, the excess of the goods accepted for one party is called *ribā*.”⁵⁴ The concepts of *ribā* and interest are often used interchangeably in Turkish: “*Ribā* is the infinitive in the dictionary and means to increase, and it is the name of the special surplus called interest.”⁵⁵

⁵² Abū Dāwūd, “al-Buyū‘,” 49; Tirmidhī, “al-Buyū‘,” 73; Ibn Mājah, “al-Tijārāt,” 27; al-Dārimī, “al-Buyū‘,” 13; Aḥmad ibn Ḥanbal, *al-Musnad* (Egypt: Dār al-Ma‘rifah, 1949), II, 327.

⁵³ Topal, “İslam Hukukunda Alım Satım Piyasasına Yönelik Bazı Düzenlemeler,” 212-214.

⁵⁴ Kamāl al-Dīn Muḥammad ibn ‘Abd al-Wāhid Ibn al-Humām, *Fatḥ al-qadīr* (Cairo: Maṭba‘at Būlāq, 1316), V, 277; Erdoğan, *Fıkıh ve Hukuk Terimleri Sözlüğü*, 480.

⁵⁵ Elmalılı Muhammed Hamdi Yazır, *Hak Dini Kur’an Dili* (Istanbul: Eser Kitabevi, 1971), II, 952-953.

Because of its great harm, interest is prohibited not only in Islam but also by all divine religions, the laws of Hammurabi, and ancient Greek, Roman, and Egyptian civilizations.⁵⁶ *Ribā*, among the greatest obstacles to production, investment, and employment in history and today, is a disease damaging economic institutions, businesses, societies, and even states.⁵⁷ Interest, described as earning without effort,⁵⁸ is the enemy of investment, production, employment, and competition in the age of Jahiliyyah and the present day and is also the source of monopoly and excessive borrowing.

Interest is not just a simple exchange of money between two people. It has many religious, moral, economic, and social implications. If an investor who lacks capital receives interest, s/he will inevitably reflect the cost of interest in prices, which means that prices rise with the pressure of interest rates. It also weakens the competitiveness of those who use interest-bearing loans against those who do not. An entrepreneur who must work unprofitably or with low profit will not be able to cover the increasing costs and will take a loss because s/he cannot compete with large capital and will be eliminated from the market over time, leaving a monopolized market with no competition. As a result, closed businesses, unemployed individuals, and high prices determined by monopolies will cause severe societal problems.⁵⁹

Interest also causes the emergence of privileged classes, namely, usurers who exploit the labor of others without putting in any effort or risk. The spread of usury sets a bad example for capital owners who desire to open production and employment areas with new investments. It directs them to interest earnings that appear effortless and riskless. As a result, many social, economic, and security

⁵⁶ İsmail Özsoy, "Faiz," in *Türkiye Diyanet Vakfı İslam Ansiklopedisi (DİA)*, XII, 110-126; Murat Pıçak, "Faiz Olgusunun İktisadi Düşünce Tarihindeki Gelişimi," *Manas Sosyal Araştırmalar Dergisi* 1, no. 4 (2012), 63-75; Mahmut Özdemir, "Fâiz (Ribâ) Kavramına İslamî Bir Yaklaşım," *Eski Yeni* 18 (2010), 67-68.

⁵⁷ Özsoy, *Fıkıh Doktrininde Para ve Faiz* (Istanbul: Ensar Neşriyat, 2012), 52; Hazıroğlu, *Katılım Ekonomisi*, 77-78; Özdemir, "Fâiz (Ribâ) Kavramına İslamî Bir Yaklaşım," 70-72.

⁵⁸ Özsoy, "Faiz," 110-126.

⁵⁹ İsmail Özsoy, *İslam İktisadında Faiz ve Çağımızda Ortaya Çıkan Problemler*, (PhD diss., Istanbul: İstanbul University, 1991), 49-52; Özdemir, "Fâiz (Ribâ) Kavramına İslamî Bir Yaklaşım," 71.

problems are inevitable due to inadequate investment and employment, unemployment, and price increases.⁶⁰

High inflation, unemployment, and global monopoly destroying competition have become the nightmares of humanity in the present day. Interest is still considered an economic value in the capitalist understanding, which indicates that these problems will continue. For this reason, Islam considers a fair economy legitimate,⁶¹ strictly prohibits interest until the Day of Judgment.⁶² However, Islamic provisions praise and encourage many types of mutual assistance, such as benevolent loan (*al-qard al-ḥasan*), partnership (corporation), foundation, and charity. The Islamic financial system also avoided and prohibited the formation of any setting that would require interest.⁶³

4.2. Profiteering/Black Market Ban

The linguistic definition of *iḥtikār* means black market, hoarding, profiteering, and monopoly. As a legal term, it means a delay in supplying goods to the market to get more profit by raising prices.⁶⁴ The terms *iḥtikār* and the black market are usually used interchangeably. The following comprehensive definition is preferred for *iḥtikār*: “The withdrawal of consumer goods from the market to create shortage which damages the public or with the expectation of increasing prices.”⁶⁵

Islamic provisions do not approve of storing goods, slowing production, and preventing the supply of goods to the market by creating a monopoly to wait for the prices to rise. Although scholars disagree regarding the definition, content, and conditions of *iḥtikār*,⁶⁶ they agree on its damage and harmful results.⁶⁷ Since the practice of *iḥtikār* might be applied to all needed substances, its possible

⁶⁰ Özdemir, “Fâiz (Ribâ) Kavramına İslamî Bir Yaklaşım,” 67-73.

⁶¹ Q 2:188.

⁶² Q 2:275, 276, 278, 279; al-Bukhârî, “al-Ḥajj,” 132; “L-Maghâzî,” 78; Abū Dāwūd, “AL-Manāsik,” 56, 61.

⁶³ Q 20:20; Q 29:11; Abū Dāwūd, “al-Buyū‘,” 26; al-Bukhârî, “al-Waşâyâ,” 22.

⁶⁴ Kallek, “İhtikâr,” 560-565; Erdoğan, *Fıkıh ve Hukuk Terimleri Sözlüğü*, 237.

⁶⁵ Kallek, “İhtikâr,” 560-565.

⁶⁶ Al-Kāsānî, *Badâ’i‘ al-ṣanâ’i‘*, V, 129; ‘Abd al-Ghanî al-Ghanîmî al-Maydānî, *al-Lubāb fî sharḥ al-kitāb* (Istanbul: Dersaadet Yayınları, n.d.), IV, 166; Ibn Mājah, “al-Tijārah,” 6.

⁶⁷ Al-Mawṣilî, *al-Ikhtiyār*, IV, 161.

damage covers financial, social, moral, and psychological areas.⁶⁸ Currently, organized protests because of price increases can turn into destructive terrorist acts that spread throughout the country, last for days, and even lead to government and regime changes.⁶⁹

Profiteering can be understood as a sign of a problematic manner and idea incompatible with Islamic norms and values. The Prophet describes this mood as follows: “What a terrible servant a black marketer is. He becomes sad upon learning that the prices are falling and becomes happy upon hearing that they have risen.”⁷⁰ This *ḥadīth* states that taking advantage of the sadness of others with the desire to earn more is unacceptable and incompatible with Islamic moral values. Islam aims to share, help, and want for one’s believer brother or sister what s/he wants for himself/herself and to raise individuals who cannot go to sleep when their neighbor is hungry.⁷¹

The Prophet stated that the black market was also vilified by God and said: “*Jālib* (the merchant who brings goods from far places) is provided with sustenance, and the black marketer is cursed.”⁷² Different *ḥadīths* related to the black marketer refer to moral punishments and threats and condemn them with striking expressions such as sinful, perverted, far from Allah’s help, deserving of leprosy and bankruptcy, and hellish.⁷³ Islamic sanctions for those who performed *iḥtikār* are not only limited to the moral level, but the system imposed administrative and penal sanctions such as disallowing them to merchandise at the market, obligating them to

⁶⁸ Kallek, “İhtikâr,” 560-565.

⁶⁹ Özge Özdemir, ‘Protestanların Son 10 Yılı: Ekonomik Kriz Sonrası Kitlesel Eylemler Dünyayı Nasıl Etkiledi?’ *BBC News Türkçe*, 25 January 2019, Access: 04.11.2022, <https://www.bbc.com/turkce/haberler-dunya-46686118>.

⁷⁰ Muslim, “al-Musāqāh,” 129-130; Ibn Mājah, “al-Tijārah,” 6: Abū Dawūd, “al-Manāsik,” 89: “al-Buyū’,” 40,47; al-Tirmidhī, “al-Buyū’,” 40.

⁷¹ Q 59:9; al-Bukhārī, “al-Īmān,” 6; Muslim, “al-Īmān,” 71; al-Tirmidhī, “Şifāt al-qiyāmah,” 60; al-Nasā’ī, “al-Īmān,” 19; Ibn Mājah, “al-Muqaddimah,” 9.

⁷² Ibn Mājah, “al-Tijārah,” 12.

⁷³ Muslim, “al-Musaqāh,” 129, 130; Ibn Mājah, “al-Tijārah,” 6; Abū Dāwūd, “al-Manāsik,” 89; “al-Buyū’,” 40, 47; al-Tirmidhī, “al-Buyū’,” 40.

follow the market prices,⁷⁴ and applying various governmental punishments (*ta'zīr*).⁷⁵

Although the Ḥanafīs and some Shāfi'īs consider it abominable to the degree of prohibition (*makrūb taḥrīmī*),⁷⁶ because of the skepticism of the relevant evidence, the majority consider it forbidden (*ḥarām*). Al-Kāsānī, another scholar of the Ḥanafī school, was also among those who considered profiteering forbidden.⁷⁷ However, storing goods without the intention of raising prices was permissible by the Ḥanafīs in times when there was no famine.⁷⁸ Although it is controversial on which goods *iḥtikār* take place, the following general evaluation has been made:

When there is a social necessity, the storage of all kinds of commodities because of stockpiling that cause serious harm to the public interest is considered within the scope of *iḥtikār*. However, [some activities such as] the protection and storage of the goods that harvested by a farmer or brought by the *jālib* from far places is not considered *iḥtikār* by the Ḥanafīs.⁷⁹

Stocking goods and selling them at high prices reduces the quantity and negatively affects production. Decreased production will cause a contraction in employment, destructive competition, and price increase. Today, justifying *iḥtikār* on the pretext of free market principles does not solve the problem. For this reason, the Prophet warned sellers not to stockpile, and this warning turned into institutional control with the *ḥisbah* organization that was established during the reign of the *al-Khulafā' al-rāshidūn*.⁸⁰

To prevent *iḥtikār*, Islamic provisions implement economic measures. Some of the economic measures taken in this context

⁷⁴ Al-Mawṣilī, *al-Ikhtiyār*, XV, 162; *al-Fatawā l-Hindiyyah*, III, 214.

⁷⁵ Al-Kāsānī, *Badā'i' al-ṣanā'i'*, V, 129; Zayn al-Dīn ibn Ibrāhīm ibn Muḥammad Ibn Nujaym al-Miṣrī, *al-Asbbāh wa-l-naẓā'ir* (Cairo: n.p., 1904), I, 121; *al-Fatawā l-Hindiyyah*, III, 214.

⁷⁶ Abū l-Ḥusayn Aḥmad ibn Abī Bakr Muḥammad ibn Aḥmad al-Qudūrī, *al-Kitāb* (Istanbul: Salah Bilici Kitabevi, 1975), 197; al-Mawṣilī, *al-Ikhtiyār*, IV, 160-161; Abū Zakariyyā Muḥyī al-Dīn Yaḥyá ibn Sharaf al-Nawawī, *al-Majmū' sbarḥ al-Muhadbbhab* (Beirut: Dār al-Fikr, 1992), XIII, 44.

⁷⁷ Al-Kāsānī, *Badā'i' al-ṣanā'i'*, V, 129; Kallek, "İhtikâr," 560-565.

⁷⁸ Al-Kāsānī, *Badā'i' al-ṣanā'i'*, V, 129; *al-Fatawā l-Hindiyyah*, III, 213-214.

⁷⁹ Al-Qudūrī, *al-Kitāb*, 197; al-Mawṣilī, *al-Ikhtiyār*, IV, 161.

⁸⁰ Kallek, "Hisbe," 140.

include the prohibition of meeting the buyer or producer entering the market (known as *talaqqī l-rukbān*), selling the goods by the city dweller on behalf of the villager,⁸¹ or selling a product before possession (*qabḍ*).⁸² Another preventive measure is to import cheap goods from abroad to stabilize prices.⁸³ However, it is crucial not to prevent domestic production because of imports. Dependence on foreign goods instead of producing has destructive effects on domestic investment, production, and employment, and it can cause high prices because of the pressure of the country from which the import is made in the long term.

4.3. The Prohibition of *Talaqqī l-rukbān*

Talaqqī l-rukbān, which causes *iḥtikār* and unfair price increases, is defined as follows: “The merchant in the city meets the peasant or the producer who brings goods to sell to the market on the road and buys what he has without [allowing] him to know the price in the market.” This is also called *talaqqī l-jalab*.⁸⁴ This is a precaution aimed at preventing the out-of-town structuring of a monopoly.

In a narration transmitted by ‘Abd Allāh ibn ‘Abbās (d. 68/687-688) regarding the prohibition of *iḥtikār*, the Prophet said: “The Messenger of Allah forbade meeting the riders on the road (taking their goods before they come to the market) and selling on behalf of the villagers.” The narrator of the *ḥadīth* asked Ibn ‘Abbās: “What is the meaning of the sale of the city dweller on behalf of the villager?” and he replied: “He cannot be a broker to a villager and sell his property on his behalf.”⁸⁵ Another *ḥadīth* states: “Do not meet a villager on the way for the sale of goods [that he] brought to the market until they are taken to the market.”⁸⁶

The producer, the buyer, and the public were protected against the monopoly of the merchant with this prohibition. The purpose of a

⁸¹ Al-Bukhārī, “al-Buyū‘,” 58, 64; Muslim, “al-Buyū‘,” 20; Abū Dāwūd, “al-Buyū‘,” 45; al-Tirmidhī, “al-Buyū‘,” 17, 18.

⁸² Al-Bukhārī, “al-Buyū‘,” 54, 55; Muslim, “al-Buyū‘,” 30, 35; Abū Dāwūd, “al-Buyū‘,” 65.

⁸³ Kallek, “İhtikâr,” 560-565.

⁸⁴ Ibn al-Humām, *Fatḥ al-qadīr*, IV, 477; Ibn ‘Ābidīn, *Radd al-mukbtār*, IV, 399; Erdoğan, *Fıkıh ve Hukuk Terimleri Sözlüğü*, 561.

⁸⁵ Al-Bukhārī, “al-Buyū‘,” 72, “al-Ijārah,” 11, 19.

⁸⁶ Al-Bukhārī, “al-Buyū‘,” 71; Muslim, “al-Buyū‘,” 14.

purchaser who meets those on the road is to buy their goods cheaper and then sell them at arbitrary prices without giving them a chance to learn the market prices. This type of monopolistic financial transactions damage customers, producers, suppliers, and other tradesmen who buy and sell goods from them.⁸⁷

The opinions amongst the schools of law vary regarding the validity of transactions made in the form of *talaqqī l-rukban*. Ḥanafīs consider these transactions abominable to the degree of prohibition.⁸⁸ However, if it does not cause any damage to the citizens and does not affect prices, they do not see any harm in meeting the manufacturer or importer outside the city and buying the goods.⁸⁹ Mālikīs consider a contract in the form of *talaqqī l-rukban* valid upon the condition that it must not cause a price increase in the market and it must not go against the interests of the producer, customer, and market.⁹⁰ Shāfi'īs evaluates these contracts as forbidden, but together with the Ḥanbalīs who accept the validity of the contract, they give the right of an option (*kbiyār al-sharṭ*) to the peasant and producer. If the peasant or the *jālib* realizes that the prices are higher in the market and that s/he is being deceived, they can terminate the contract by using the right of option.⁹¹

In the present day, the states have taken preventive measures against intermediaries causing unnecessary price increases.⁹² Some of the existing practices are occasionally considered within the scope of *talaqqī l-rukban*, such as the price announcement of the state for

⁸⁷ Osman Eskicioğlu, *İslam ve Ekonomi* (İzmir: Anadolu Yayınları, 1999), 120.

⁸⁸ Wahbah al-Zuhaylī, *al-Fiqh al-Islāmī wa-adillatuh* (Damascus: Dār al-Fikr, 1989), IV, 239.

⁸⁹ Burhān al-Dīn Abū l-Ḥasan 'Alī ibn Abī Bakr ibn 'Abd al-Jalīl al-Rushdānī al-Marghīnānī, *al-Hidāyah sharḥ Bidāyat al-mubtadi'* (Egypt: n.p., n.d.), III, 53.

⁹⁰ Al-Marghīnānī, *al-Hidāyah*, III, 54; Abū l-Walīd Muḥammad ibn Aḥmad Ibn Rushd, *Bidāyat al-mujtabid wa-nibāyat al-muqtaṣid* (Cairo: Dār al-Ḥadīth, 2004), III, 185; Ibn Qudāmah, *al-Mughnī*, IV, 165; 'Abd al-Raḥmān al-Jazīrī, *Kitāb al-Fiqh 'alā l-madbāhib al-arba'ah* (Istanbul: Çağrı Yayınları, 1987), XII, 276-277.

⁹¹ Abū Ishāq Ibrāhīm ibn 'Alī al-Shīrāzī, *al-Mubaddih* (Beirut: Dār al-Kutub al-'Ilmiyyah, n.d.), II, 63; Ibn Qudāmah, *al-Mughnī*, IV, 165; al-Jazīrī, *Kitāb al-Fiqh*, II, 277.

⁹² *Resmî Gazete*, "Haksız Fiyat Değerlendirme Kurulu Yönetmeliği," 28 May, 2020, No: 31138; *Resmî Gazete*, "Tüketicinin Korunması Kanunu," Decree No: 6502, No: 28835, 28.11.2013.

some products, including wet tea, hazelnuts, or sugar beet before the harvest since this practice forces the producers to sell their goods cheaply.⁹³ It can be claimed that there is no need for such concerns if the system considers the costs of production and protects the interest of the producer and the consumer. The prohibition of *talaqqī l-rukbbān* provides a competitive environment and price stability but also protects the system from the pressure of monopoly. The prohibition enables the producer and the *jālib* to receive the return of the labor and encourages the continuity of production and supply of goods. The balances between investment, production, and employment are also preserved regarding this method.

4.4. Prohibition of Selling on behalf of Villagers/Brokerage

The prohibition of *talaqqī l-rukbbān* obviates the possibility of out-of-town attempts of monopoly, while the prohibition of brokerage forecloses the intracity formation of monopoly. Both prohibitions aim to close the road to monopoly, prevent unnecessary price increases, and protect producers, consumers, and suppliers against the risk of being deceived.⁹⁴

In the time of the Prophet, some made it a profession to keep the goods of the peasants in return for the promise of high profits and commissions.⁹⁵ The Prophet forbade the practice that prepares the ground for monopoly and earning effortlessly through the labor of others: “The city dweller must not sell on behalf of the villager in the city. Leave people [to themselves]. Allah will provide for them from one another.”⁹⁶ Another narration from Mālik ibn Anas (d. 179/795) says: “The city dweller is prohibited from selling on behalf of the villager even if it is his brother or father.”⁹⁷

Although the city dweller’s offer of high price attracts the villager and the *jālib*, it brings disadvantages such as decreasing supply of goods, increasing stocking, damaging competition, or causing price

⁹³ Hamdi Döndüren, *Delilleriyle Ticaret ve İktisat İlmibali* (Istanbul: Erkam Yayınları, 2012), 232.

⁹⁴ *Ibid.*, 230.

⁹⁵ Celal Yeniçeri, *İslam İktisadının Esasları* (Istanbul: Şamil Yayınları, 1980), 303-321.

⁹⁶ Al-Bukhārī, “al-Buyū‘,” 58, 64; Muslim, “al-Buyū‘,” 20; Abū Dāwūd, “al-Buyū‘,” 45, al-Tirmidhī, “al-Buyū‘,” 17, 18.

⁹⁷ Muslim, “al-Buyū‘,” 21.

escalation. Islamic provisions abolish this practice because of leading monopoly and harming equality of opportunity. The statement of *ḥadīth*, “leave the people be,” intends to preserve the natural market flow. The statement, “Even if it is his brother or father, he should not sell on behalf of the villager,”⁹⁸ refers to the seriousness of the matter and precautions taken against the possibilities that can be considered as an intervention in the markets. In a market visit, the Prophet addressed those who introduced themselves as “brokers” as “Oh community of merchants!”⁹⁹ This address form was interpreted in a way that the Prophet disliked even mentioning the name of the brokerage He abolished.¹⁰⁰

The legal status of brokers is evaluated differently by the schools of law. Although Ḥanafīs, Shāfi‘īs, and Mālikīs considered their transactions abominable, they accepted the legal validity of the contract. Other schools of law adopt different views on brokerage regarding evaluations related to the scarcity and abundance of the offered goods or the negative influence of practice over the prices.¹⁰¹ Brokerage, as in the form of middlemen or intermediaries, which does not cause negative effects such as monopoly, stocking, and an increase in prices, is not considered within the scope of the prohibition mentioned above.¹⁰² Ḥanafīs considered its practice permissible upon intermediating for a fixed fee.¹⁰³

Today’s brokers of wholesale and retail vegetable and fruit markets are not considered within the scope of this prohibition as long as they avoid stockpiling and protect the rights of producers and consumers.¹⁰⁴ It is important to state that the balance between economic factors is preserved along with continuing to invest, produce and employ, and protecting the interests of producers and *jālib*.

⁹⁸ Muslim, “al-Buyū‘,” 21; Abū Dāwūd, “al-Buyū‘,” 45.

⁹⁹ Abū Dāwūd, “al-Buyū‘,” 1; al-Tirmidhī, “al-Buyū‘,” 4; Ibn Mājah, “al-Tijārah,” 3.

¹⁰⁰ Kallek, “Devlet Piyasa İlişkisi,” III, 343.

¹⁰¹ Al-Jazīrī, *Kitāb al-Fiqh*, II, 277; Döndüren, *Delilleriyle İslam İlmihali*, 873.

¹⁰² Al-Marghīnānī, *al-Hidāyah*, 53.

¹⁰³ Abū Sahl Muḥammad ibn Aḥmad al-Sarakhsī, *al-Mabsūṭ* (Beirut: Dār al-Ma‘rifah, 1978), XV, 115-116; Döndüren, *Delilleriyle İslam İlmihali*, 873.

¹⁰⁴ Döndüren, *Delilleriyle İslam İlmihali*, 873.

4.5. Speculation (*Najash*) Prohibition

Najash is defined as “fraudulent bidding, raising the price just to intensify the bargain even if there is no real buyer.”¹⁰⁵ Islam forbids all kinds of deception, cheating, and uncertainty that might harm consent between the parties in contracts. *Najash*, which includes lying, cheating, and deception, is also prohibited in this context. The prohibition is related to an intervention made during bargaining or before the expiration of the discretionary period.

By forbidding *najash*, the Prophet said: “...Do not perform *najash*. No one must bargain over his brother’s bargain.”¹⁰⁶ *Najash* causes economic problems, such as unfair earnings, and damages moral and social structures, such as brotherhood, trust, and righteousness. In a narration from ‘Abd Allāh ibn Abī Awfā (d. 86/705), the Prophet said: “The one who does *najash* performs usury and is a traitor, and [*najash*] is a false fraud that is not *ḥalāl*.”¹⁰⁷ The prohibition was confirmed with different examples in another *ḥadīth*: “Do not escalate the customer. No one must sell over the sale of his brother. Do not send a coin-law over your brethren.”¹⁰⁸

Najash can be made in several different ways. Sometimes the seller makes a deal with a third party and deceives the customer, or sometimes, a third person who does not intend to buy from outside makes *najash* without the knowledge of the buyer and the seller. Sometimes, the seller may make *najash* by lying that the goods are worth more or even that some give more than the spoken price.¹⁰⁹ A different type of *najash* is found in present-day execution offices and auction halls. The participants of the auction buy goods cheaper regarding their confidential agreements, and the seller suffers a significant loss. Legal scholars disapprove of a reverse *najash* practice that aims to decrease the price of goods rather than increase them.¹¹⁰

Legal scholars agree that *najash* is forbidden and those who

¹⁰⁵ Al-Marghīnānī, *al-Hidāyah*, 53; al-Jazīrī, *Kitāb al-Fiqh*, II, 273.

¹⁰⁶ Al-Bukhārī, “al-Buyū‘,” 58; Muslim, “al-Buyū‘,” 12,13; Abū Dāwūd, “al-Buyū‘,” 46; al-Tirmidhī, “al-Buyū‘,” 65.

¹⁰⁷ Al-Bukhārī, “al-Buyū‘,” 60; “al-Shahādah,” 22.

¹⁰⁸ Al-Bukhārī, “al-Buyū‘,” 64, 70; Muslim, “al-Nikāḥ,” 51-56, “al-Buyū‘,” 11, 12; al-Nasā’ī, “al-Buyū‘,” 16.

¹⁰⁹ Ibn ‘Ābidīn, *Radd al-mukhtār*, VII, 305.

¹¹⁰ Al-Zuḥaylī, *al-Fiqh al-Islāmī*, IV, 239; Kallek, “Müzayede,” 236-238.

perform it are sinful.¹¹¹ Considering the differences in practice, the schools of law propose various provisions regarding the validity of contracts done by way of *najash*. According to the Ḥanafīs, it is permissible to perform a *najash* sale to find the real value of goods previously sold at a lower price than their market value.¹¹² The Ḥanafīs, who say that the purpose of *najash* prohibition is to protect parties from damage, consider *najash* permissible for goods sold below their real value and a form of cooperation.¹¹³ Regarding the rulings, the Ḥanafīs evaluate a sale through *najash* as abominable to the degree of prohibition and the Mālikīs, Ḥanbalīs, and Shāfi'īs as forbidden. However, they consider the contract legally valid and give the customer the right of option.¹¹⁴ The right of option can make up for the injustices to some extent.¹¹⁵ The deception of people by false and fraudulent tools and unfairly lowering or increasing prices are prevented with the *najash* prohibition. The purpose of prohibition centers on the protection of social peace and commercial morality by preventing unfair acquisitions and preserving market stability and human relations.

4.6. Prohibition of Selling Before Possession (*Qabd*)

Qabd enables some contracts to gain legal validity in Islamic law and is linguistically defined as 'to hold something with one's hand, to grasp it firmly, to bend and narrow.'¹¹⁶ Its terminological definition means: "The customer receives what is bought from the dealer, he has the right of disposition on it, and [the possession] removes the barriers between the seller (*bā'i*) and the customer."¹¹⁷

The Prophet applied *ta'zīr* punishments to those who did not obey this prohibition. A narration from Ibn 'Umar states: "We used to buy foods at the time of the Messenger of Allah (PbuH), but before we

¹¹¹ Al-Jazīrī, *Kitāb al-Fiqh*, II, 273; Döndüren, *Delilleriyle Ticaret ve İktisat İlmihali*, 235.

¹¹² Al-Shawkānī, *Nayl al-awṭār*, V, 187; Ibn 'Ābidīn, *Radd al-mukhtār*, VII, 305.

¹¹³ Al-Jazīrī, *Kitāb al-Fiqh*, II, 273; al-Zuhaylī, *al-Fiqh al-Islāmī*, IV, 239.

¹¹⁴ Ibn Qudāmah, *al-Mughnī*, V, 385; al-Shīrāzī, *al-Muhadhdhab*, I, 291; Ibn Rushd, *Bidāyat al-mujtabid*, III, 185; al-Jazīrī, *Kitāb al-Fiqh*, III, 273.

¹¹⁵ Topal, "İslam Hukukunda Alım Satım Piyasasına Yönelik Bazı Düzenlemeler," 216.

¹¹⁶ Ibn Manẓūr, *Lisān al-‘Arab*, VII, 213.

¹¹⁷ Al-Kāsānī, *Badā'i' al-ṣanā'i'*, V, 244; Erdoğan, *Fıkıh ve Hukuk Terimleri Sözlüğü*, 282.

sold them, he would send someone to order us to transfer them from the place we bought them to another place.”¹¹⁸ Another narration of Ibn ‘Umar says: “I saw people who bought food on a lump sum basis during the time of the Messenger of Allah (PbuH). When they tried to sell it (where it is), they would be beaten until they loaded it and transported it (to another place).”¹¹⁹ The scholars agree on the impermissibility of selling movable goods, especially foodstuffs, before the reception of their possession by the customer¹²⁰ because the Prophet said: “Whoever buys food, let him not sell it until he takes possession of it.”¹²¹ Most scholars claim that the food item mentioned in this *ḥadīth* is exemplary and that the prohibition covers all movable goods.¹²² Although Abū Ḥanīfah and Abū Yūsuf (d. 182/798) approve the permissibility of disposition of immovable goods before their *qabḍ*, Muḥammad al-Shaybānī (d. 189/805), Zufar ibn Hudhayl (d. 158/775) and al-Imām al-Shāfi‘ī extend the scope of prohibition by not allowing the sale of immovable goods before their *qabḍ*.¹²³

Selling a purchased good to someone else before its possession and without transporting it to a new place brings some risks. This prohibition provides disclosure of possible defects related to the quantity, type, and quality of the goods, as well as faults and deficiencies that may occur during the production, packaging, transportation, and storage of the goods. The prohibition also contributes to the prevention of misunderstandings and ambiguities concerning possible defects and faults. It also contributes to employment with additional investments because transporting goods from one place to another often requires additional operations, such as transportation, storage, and portage. Disallowance of deceiving people and exploiting labor prevents the formation of a privileged class, encourages fair competition, and eliminates the inconveniences

¹¹⁸ Muslim, “al-Buyū‘,” 33; Abū Dāwūd, “al-Buyū‘,” 65; al-Nasā‘ī, “al-Buyū‘,” 57.

¹¹⁹ Al-Bukhārī, “al-Buyū‘,” 54, 56; Muslim, “al-Buyū‘,” 37, 38; Abū Dāwūd, “al-Buyū‘,” 65; al-Nasā‘ī, “al-Buyū‘,” 57.

¹²⁰ Al-Zuḥaylī, *al-Fiqh al-Islāmī*, IV, 411.

¹²¹ Al-Bukhārī, “al-Buyū‘,” 54, 55; Muslim, “al-Buyū‘,” 30, 35; Abū Dāwūd, “al-Buyū‘,” 65.

¹²² Kāsānī, *Badā‘i‘ al-ṣanā‘i‘*, V, 234.

¹²³ Al-Kāsānī, *Badā‘i‘ al-ṣanā‘i‘*, V, 218; *Majallah*, Art. 253.

regarding undelivered goods (because of lack of possession). When the system eliminates uncertainties, the market usually becomes the center of sustainable economic development, trust, and stability.

4.7. Perjury and Prohibition of Cheating

An oath means to show God as a witness about the truthfulness of what a person says or does, and it is used as important legal proof in Islamic legal cases.¹²⁴ Muslims are discouraged from making casual and false oaths in the Qurʾān: “*And do not take your oaths as a means of deceiving one another or your feet will slip after they have been firm. Then you will taste the evil (consequences) of hindering (others) from the Way of Allah, and you will suffer a tremendous punishment.*”¹²⁵ The Prophet pays attention to the function of the oath and says: “Proving his case with evidence falls on the plaintiff, and the oath falls on the defendant.”¹²⁶ Just as lying is strictly prohibited in Islam,¹²⁷ it is also forbidden to believe and follow the word of the one who swears everything. A relevant *ḥadīth* states: “Do not obey the mean-spirited who swears a lot.”¹²⁸ The Prophet says: “Among the three groups that Allah will not look at on the Day of Judgment is the person who takes an oath using the name of Allah.”¹²⁹ Muslims are advised to avoid taking random oaths regardless of their truthiness because another relevant *ḥadīth* states: “Refrain from taking too many oaths in trade because an oath increases the yield but destroys the abundance (*barakah*).”¹³⁰

It is easy and possible to deceive people with false oaths and food fraud by changing the original appearance and quality of the product. Islam does not allow to deceive people with adulterations (*taghshīsh*), such as hiding the wet side of wheat under the dry part,¹³¹ which is the most common deceptivity in the present-day

¹²⁴ Q 5:106-108.

¹²⁵ Q 16:94.

¹²⁶ Al-Tirmidhī, “al-Aḥkām,” 12.

¹²⁷ Q 22:30.

¹²⁸ Q 68:10.

¹²⁹ Al-Bukhārī, “al-Musāqāh,” 5; Muslim, “al-Īmān,” 46.

¹³⁰ Al-Bukhārī, “al-Buyūʿ,” 25; Muslim, “al-Īmān,” 46; “al-Musāqāh,” 131.

¹³¹ Muslim, “al-Īmān,” 164; al-Tirmidhī, “al-Buyūʿ,” 74; Abū Dāwūd, “al-Buyūʿ,” 52.

commercial market.¹³² Similarly to adulteration, when a poor-quality good in the market is sold with an oath and fraud, unfair profits are made by deceiving people.¹³³ While the customer is deceived into buying poor-quality goods at high prices, the producers of high-quality goods cannot receive their efforts' worth leads to unfair treatment. All these financial transactions are prohibited because of incompatibility with Islamic business ethics.

The Prophet explicitly prohibits adulteration when visiting the butchers after an Eid prayer: "Sell as you wish but do not mix the meat of dead animals with the meat of slaughtered animals."¹³⁴ Changing the dates of expired products and selling them must also be evaluated within the context of adulteration.¹³⁵

People with weak fear of God and belief in the hereafter have always found various ways to deceive people and earn unjustly. The provisions of Islam prohibit all actions aiming at deceiving people regardless of their time, form, subject (whether a firm or a person), or the tools used. As usual in every period, people can face various forms of deception in the present day. The common tricks in commercial markets of the present day include weight deceptions in packaged products, brand imitations, food fraud, adulteration, deceptive advertisements, fake campaigns, or false labels. The Qur'an and Sunnah, therefore, repeatedly warn people against all kinds of cheating and deception.¹³⁶

It may be stated that people can be easily deceived by virtual platforms created by the spread of the internet and digital tools. Therefore, it is important to establish a legal basis and to take preventive measures against these deceptions that deteriorate human health and economic balance. Since the use of the internet and digital platforms increased, and virtual shopping has expanded extremely during the COVID-19 pandemic, people have had negative

¹³² *Taghsbīsh* means eliminating purity of something that is pure and sincere by mixing other things. See, Erdoğan, *Fıkıh ve Hukuk Terimleri Sözlüğü*, 534.

¹³³ Al-Zuhaylī, *al-Fiqh al-Islāmī*, IV, 221.

¹³⁴ Asım Köksal, *İslam Tarihi* (Istanbul: Şamil Yayınevi, 1987), VIII, 197.

¹³⁵ Muslim, "al-İmān," 43, 164; al-Tirmidhī, "al-Buyūʿ," 74; Abū Dāwūd, "al-Buyūʿ," 52.

¹³⁶ Q 6:152; Q 6:85; Q 11:84-86; Q 17:35; Q 26:181,182; Q 55:7-9; Q 83:1-6; al-Tirmidhī, "al-Buyūʿ," 4; Ibn Mājah, "al-Tijārah," 1.

experiences and faced a great loss of rights.¹³⁷ Taking legal measures has become even more important against many actions under the scope of digital crime ranging from shopping to health and social life to entertainment.¹³⁸ It is worth mentioning that these measures must be deterrent, dissuasive, and compensatory to eliminate grievances.

Since the spread of fraud disrupts the balance between investment, production, and employment, economic stability will suffer.¹³⁹ Therefore, firms supporting substantial investments and producing highly qualified goods occasionally encounter income losses because of unfair competition when their products are imitated and sold cheaply. These firms mainly decide to close their businesses or shift their capital and investments elsewhere.¹⁴⁰ These negative decisions unavoidably cause the spread of social and moral problems as well as the loss of investment, production, and employment.

4.8. Market Control: *Hisbah*

Hisbah literally means to calculate, to count, to be sufficient. The institution is legally responsible for protecting general morality and public order according to the principle of ‘enjoin good and forbid evil (*amr bi-l-ma‘rūf naby ‘an al-munkar*).¹⁴¹ *Hisbah* is not considered a mere control mechanism for economic markets. In line with the principle of enjoining good and forbidding evil,¹⁴² many issues concerning general morality and public order fall within the scope of

¹³⁷ Osman Demir and Adem Esen, “Covid 19’un Yıkıcı Ekonomik Etkileri ve Türkiye Ekonomisinde Dönüşüm İhtiyacı,” *Journal of Emerging Economies and Policy* 6, no. 1 (2021), 92-95.

¹³⁸ Burak Cesur Aköz, “Türk Ceza Kanunu Kapsamında Bilişim Suç ve Cezaları ile Örnek Yargısal Kararların Analizi ve Mevzuat Önerileri” (IT thesis, Ankara: Bilgi Teknolojileri ve İletişim Kurumu, 2018), 50-52, 101, 211.

¹³⁹ Salih Yıldız and İbrahim Avcı, “Tüketici Temelli Marka Değerinin Taklit Markalı Ürün Algısı Üzerindeki Etkisi,” *Bingöl Üniversitesi Sosyal Bilimler Enstitüsü Dergisi* 9, no. 17 (2019), 196.

¹⁴⁰ Ahmet Kurtaran, “Doğrudan Yabancı Yatırım Kararları ve Belirleyicileri,” *Atatürk Üniversitesi Sosyal Bilimler Enstitüsü Dergisi* 10, no. 2 (2007), 374-376; Hasan Kaymak, “Yabancı Doğrudan Yatırımları Artırmak İçin Teşvikler Gerekli ve/veya Yeterli mi?,” *Maliye Dergisi*, 149 (2005), 87-91.

¹⁴¹ Kallek, “*Hisbe*,” 133; Yusuf Ziya Kavakçı, *Hisbe Teşkilatı* (Ankara: Atatürk Üniversitesi Yayınları, 1975), 11-13.

¹⁴² Q 3:104, 110, 114; Q 9:71, 112; Q 22:41.

ḥisbah's responsibility. Economic issues and related regulations are also under its control and supervision.¹⁴³

Since the Prophet laid the theoretical¹⁴⁴ and practical foundations¹⁴⁵ of *ḥisbah* under the control of revelation, its practice started with the market controls of the Prophet.¹⁴⁶ Male and female officials were appointed later, whose duty was only supervision and who were called *muḥtasib*. The first official *muḥtasibs* include Sa'īd ibn al-ʿĀṣ ibn Umayyah (d.13/634) in Mecca, ʿAbd Allāh ibn Sa'īd ibn Usayha ibn al-ʿĀṣ, ʿUmar ibn al-Khaṭṭāb, Samrā' bint Nuhayk al-Asadiyyah and Shifā' bint ʿAbd Allāh in Medina.¹⁴⁷

The appointment of women *muḥtasibs* was an extremely important and appropriate practice because of the presence of women as customers and sellers in the markets. This is significant for sellers and the safety of the women shopping in the bazaar. Traps were set for Muslim women in the Banū Qaynuqā' market before the Medina market was established. The following events showed the importance of market security and control for women.¹⁴⁸

In the beginning, the Prophet himself, governors, permanent-temporary officials, many volunteers, and the Companions of the Prophet also served as *muḥtasibs*.¹⁴⁹ *Muḥtasibs*, who would participate in the bazaar-market inspections, were chosen from the competent people who understood the concepts of measurements, weights, and money settings and knew enough calculations to control the price. *Muḥtasibs* were equipped with wide authority, such as:

¹⁴³ Cahit Baltacı, *İslam Medeniyeti Tarihi* (Istanbul: Marmara Üniversitesi İlahiyat Fakültesi Vakfı Yayınları, 2016), 109.

¹⁴⁴ Q 3:104, 110; Q 7:199; Q 9:71; Muslim, "al-Īmān," 78, 80; al-Tirmidhī, "al-Fitan," 11; al-Nasāʾī, "al-Īmān," 17.

¹⁴⁵ Al-Tirmidhī, "al-Buyūʿ," 74; Abū Dāwūd, "al-Ijārah," 50; Ibn Mājah, "al-Tijārah," 3, 36.

¹⁴⁶ Muslim, "al-Īmān," 164; Ibn Mājah, "al-Tijārah," 3, 36; Abū Dāwūd, "al-Buyūʿ," 50; al-Tirmidhī, "al-Buyūʿ," 4, 72.

¹⁴⁷ Hamidullah, *İslam Peygamberi*, 801; Sariçam, *Hz. Muhammed ve Evrensel Mesajı*, 310; Kallek, "Hisbe," 133,134.

¹⁴⁸ ʿAbd al-Malik ibn Hishām ibn Ayyūb al-Ḥimyārī al-Maʿāfirī, *al-Sīrah al-Nabawiyyah* (Cairo: n.p., 1974), III, 48, 1974.

¹⁴⁹ Al-Bukhārī, "al-Buyūʿ," 49, 66; Muslim, "al-Buyūʿ," 33; Ibn Mājah, "al-Tijārah," 20.

Intervening in all kinds of corruption and conflicts violating public order, which are frequently faced in commercial and social life, such as cheating in measuring and weighing instruments, all kinds of deceptions in economic transactions, unpaid debts, violations of neighbor rights, and employee-employer disputes.¹⁵⁰

This control system created in Islam aims to establish the trustable and stable environment sought by commercial markets. A stable financial environment for investors, producers, sellers, and customers will be established with this effective control mechanism when a fair competition environment is protected, cheating and deception are subjected to immediate intervention, artificial price increases are not allowed, and people are protected against unjustified benefits. The institution contributes to the formation of a vibrant market and the satisfaction of all the stakeholders of commerce in terms of prices. It may be possible to strengthen the economic structure and maintain the balance of investment, production, and employment with such a vibrant and active market.

Conclusion

In the Medina market, the principles of revelation were transferred from theory to practice under the supervision of the Prophet. The practice of all transactions based on cruelty, such as interest, deception, unfair taxation, lying, and cheating, was abolished to provide stability in the market. They were replaced by principles based on justice and legitimacy, fair competition, equal opportunity and distribution, and morality dominated trade system.

The present study shows that although Islam favors a free market economy, it also follows a realistic price policy without artificial interventions. Prices are not formed by direct intervention in Islamic economics but by the principle of spontaneous formation within supply-demand balance and fair competition. The free market understanding of Islam and the free market understanding of present-day capitalism are clearly different. Destructive competition, monopoly, deceptive advertising tricks, rent economy, interest, and

¹⁵⁰ Fahreddin Atar, *İslâm Adliye Teşkilâtı* (Ankara: Diyanet İşleri Başkanlığı Yayınları, 1979), 170-175.

illegitimate transactions are not evaluated as part of the free market understanding of Islam.

The present study showed that Islamic economic principles are sufficient to create a fair and principled financial market by preserving the balance of investment, production, and employment without wasting resources. Fifteen centuries of experience support that the measures taken within the scope of Islamic price policy can provide solutions to current problems in determining fair prices and balancing investment, production, and employment. Commercial actions based on money-goods exchange in the markets are only the visible part of the economy. The invisible part of Islamic price policy covers a harmonious unity of many economic factors such as investment, production, employment, and labor within the scope of Islamic price policy.

Moreover, since economic relations have become more complex and compulsory in the present day, it is wrong to evaluate the economy regarding only price policy. Attention must be paid to investment, production, and employment factors to make a sound evaluation and solve problems stemming from economics. Evaluating this integrity can greatly contribute to development and increase the welfare levels of societies.

Unlike many economic systems, the price policy of Islam focuses on the causes of price increases rather than directly intervening in prices. In this context, it was also determined that while maintaining the balance of investment, production, and employment, the preventive measures should pay attention to social peace and morality. In Islamic economics, the principle of legitimacy has always been the main starting point. When Islam prohibited illegitimate earning, these prohibitions significantly contributed to maintaining the balance of investment, production, and employment. Stocking, monopoly, brokerage, and the ways leading to these (that prevent people from accessing goods) were closed, and continuity in investment, production, and employment was ensured. It was determined that rights based on labor were secured and that economic imbalance was prevented before it turned into individual and social problems.

The price policy and preventive measures aimed to protect a fair competition environment through equality of opportunity and

contribute to social development by spreading income amongst social segments. Additionally, the ground is prepared to increase the diversity in economic activities and market mobility. It is possible to argue that the positive results obtained by the preventive measures taken within the scope of Islamic price policy are protected by the *hisbah* organization, which is an excellent and functional auditing institution. This way, the effectiveness and continuity of the abovementioned measures are ensured.

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AESTHETIC CHARACTERISTICS IN THE QUR'ĀN

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Abstract

It can be argued that the notion of aesthetics occupies a central place in Islam's revealed text. Discussing the qualities that characterize the notion of aesthetics has attracted the attention of scholarly tradition. In the Qur'ānic discourse, various qualities can be discerned to characterize aesthetics.

To gain a better understanding and to construct a comprehensive image of the Qur'ānic perspective of aesthetic characteristics, the Qur'ān must be taken in its entirety. However, this study is based on the thematic exegesis genre, which aims to present a holistic view of the theme as discussed throughout the entire Qur'ānic text considering selected modern Qur'ānic exegeses, where more attention is given to a number of exegetical aspects considered in thematic exegesis.

Key Words: Aesthetics, characteristics, objective reality, perfection, pleasure

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Introduction

In the Qurʾānic text, several Qurʾānic terms are related to aesthetics.¹ In the same way, the Qurʾān expresses aesthetic concepts using several characteristics. Recognizing and analyzing all these characteristics is critical to developing a complete understanding of the concept of aesthetics in the Qurʾān. These characteristics might not, at times, look completely distinct from each other, with some overlap between them, but they are not synonymous and should therefore be treated as different.

A primary analysis of the qualities characterizing this notion of aesthetics in Qurʾānic discourse will be performed in the next few pages, which may shed more light on the underlying meanings and allow a closer understanding of this key notion. It is essential to note that the aim here is not to reach a definition of “aesthetics” in the Qurʾānic text; rather, it is an attempt to emphasize or determine the prominent or essential characteristics or qualities that characterize “aesthetics” to clarify discussions of the notion of “aesthetics” as it appears in Qurʾānic discourse.

One prominent characteristic is the beauty of “perfection.” “Perfection” is presented as an objective quality, so it is not a matter of personal judgment. Any beauty that the Qurʾān attributes to God is presented as an objective fact, not subject to opinion. Such beauty is presented as something that one ought to learn to recognize and appreciate. It is no surprise, therefore, to see beauty in the Qurʾān presented as something that God deliberately placed in creation.

The second quality that characterizes aesthetics is that it creates a feeling of pleasure in individuals. The third characteristic of aesthetics in the Qurʾān can be described as “goodness” and “usefulness.” Additionally, the Qurʾān stresses that the beauty in God’s creation is something for the human being to contemplate, which may be considered the fourth quality of aesthetics in the Qurʾān.

¹ Aesthetics in the Qurʾān is expressed using a number of terms, all of which have specific connotations. The most often mentioned are *jamāl* and *jamīl* from the root *j-m-l*, derivatives from the root *ḥ-s-n*, those from the root *z-y-n*, those from the root *z-kh-r-f*, those from the root *b-h-j* and those from the root *n-ḍ-r*.

1. Itqān²

The first of these characteristics is *itqān*, which is found in verse Q 27:88, describing God's creation: "this is the handiwork of God who has perfected all things." This Qurʾānic verse asserts that *itqān* is the visible feature of the entirety of God's creation, which reflects excellence and perfection in the whole. In light of its common linguistic meaning and Qurʾānic hermeneutics,³ this feature might be considered an umbrella term that involves all the qualities proposed as the properties of a "beautiful" object.⁴ It encompasses the principles of proportion, harmony, order, equilibrium, perfection, symmetry, etc., which are often expressed as universal criteria of beauty.⁵ In fact, Qurʾānic discourse goes beyond this to emphasize a

² This Qurʾānic term is translated as "perfection" in most Qurʾān translations. See, for example, M. A. S. Abdel Haleem, *The Qurʾān: A New Translation* (New York: Oxford University Press, 2005), 243; ʿAbd Allāh Yūsuf ʿAlī, *The Meaning of the Holy Qurʾān* (Maryland: Amana Publications, 1992). All translations of Qurʾānic verses are quoted from M. A. S. Abdel Haleem's *The Qurʾān: A New Translation* unless otherwise stated.

³ See, for example, Abū l-Baqāʾ Ayyūb ibn Mūsā al-Ḥusaynī al-Kafawī, *al-Kulliyāt: Muʿjam fī l-muṣṭalahāt wa-l-furūq al-lughawiyah*, ed. ʿAdnān Darwīsh and Muḥammad al-Miṣrī, 2nd ed. (Beirut: Muʾassasat al-Risālah, 1998), 39; Abū l-Fayḍ Muḥammad al-Murtaḍā al-Ḥusaynī al-Zabīdī, *Tāj al-ʿarūs min jawābir al-Qāmūs*, ed. ʿAbd al-Sattār Aḥmad Farrāj et al. (Kuwait: Wizārat al-ʿIlm, 1993), XXXIV, 316; Abū l-Faḍl Jamāl al-Dīn Muḥammad ibn Mukarram Ibn Manẓūr al-Anṣārī, *Lisān al-ʿArab*, ed. ʿAbd Allāh ʿAlī al-Kabīr, Muḥammad Aḥmad Ḥasb Allāh, and Hāshim Muḥammad al-Shādhilī (Cairo: Dār al-Maʿārif, 1981), V, 437; Edward William Lane, *An Arabic-English Lexicon* (Beirut: Librairie du Liban, 1968), I, 309; Elsaid M. Badawi and Muhammad Abdel Haleem, *Arabic-English Dictionary of Qurʾānic Usage* (Leiden: Brill, 2008), 134-135; Sayyid Quṭb, *Fi Zilāl al-Qurʾān*, 32nd ed. (Cairo: Dār al-Shurūq, 2003), V, 2669; id., *In the Shade of the Qurʾān*, trans. and ed. Adil Salahi (Leicester: The Islamic Foundation, 2005), XIII, 364; Muḥammad Mutawallī al-Shaʿrāwī, *Tafsīr al-Shaʿrāwī* (Cairo: Akhbār al-Yawm, 1999), XVII, 10858-10859.

⁴ Carolyn Korsmeyer, "Taste," in *The Routledge Companion to Aesthetics*, ed. Berys Gaut and Dominic McIver Lopes (London: Routledge, 2001), 193.

⁵ Scholars have long been concerned with the essential characteristics of beauty. For example, Plato emphasizes proportion and measure. Medieval philosophers, in particular St. Thomas Aquinas, assigned three conditions of beauty: perfection, proportion or harmony, and brightness or clarity. Muslim scholars, al-Ghazālī for example, talk about perfection. Ibn Sīnā considered order, composition, and harmony. Furthermore, Behrens-Abouseif points out that the Arabs inherited from the Greeks the doctrine that proportion was the basis of beauty. See Christopher S. Nwodo, "Philosophy of Art versus Aesthetics," *British Journal of Aesthetics* 24, no. 3 (Summer 1984), 200; George Dickie, *Aesthetics: An Introduction* (Indianapolis: Pegasus, 1971), 7-9; Doris Behrens-Abouseif, *Beauty*

sense of beauty beyond the perfection and excellence of God's creation, explicitly using the term *aḥsana* as seen in verse Q 32:7, "who gave everything its perfect form." Although the translation does not signify the sense of beauty seen in the Arabic term, the sense of beauty is clearly understood from the term *aḥsana*, in addition to its connotation of perfection. This instance justifies the claim to translate the term *iḥsān* and all related derivatives from the root ḥ-s-n as "making beautiful."⁶

In this regard, one might argue that the use of the word *iḥsān* (the infinitive of *aḥsana*) to signify the first quality of aesthetics in the Qur'ānic discourse is more appropriate since it implies the sense of beauty. However, it is worth mentioning that the term *iḥsān* is very comprehensive; thus, the cluster of meanings around it denotes, for instance, beauty, excellence, virtue, doing well, doing good, etc.⁷ This variation in the connotations of this term might create confusion, while the precise meaning of the word *itqān* makes it more appropriate for this context. Certainly, the term *itqān*, when applied to God as mentioned in verse Q 27:88, means beauty since God created the entire universe in a beautiful form, according to verse Q 32:7. Another reason for this preference is that the word *itqān* is used by Arabic lexicographers, such as al-Fīrūzābādī and al-Rāghib, and Qur'ānic exegetes when explaining the word *aḥsana* and all of its related derivatives (*aḥsantum*, *aḥsanū*, *tuḥsanū*, etc.).⁸

As far as Qur'ānic exegesis is concerned, the quality of *itqān* is often mentioned as a basis for aesthetics in the sense of perfection and the absence of shortcomings and confusion. In fact, Quṭb considers this connection to be two sides of the same coin or two

in Arabic Culture (Princeton: Markus Wiener Publishers, 1999), 37; Binyamin Abrahamov, *Divine Love in Islamic Mysticism: The Teachings of al-Ghazālī and al-Dabbāgh* (London: Routledge Curzon, 2003), 105-113.

⁶ Sachiko Murata and William C. Chittick, *The Vision of Islam* (Minnesota: Paragon House, 1994), 269; Reza Shah-Kazemi, "Truly God is Beautiful and He Loves Beauty: Aesthetics and Metaphysics in the Light of *Tawḥīd*," (lecture presented at the Prince's School of Traditional Art, London, November 27, 2013).

⁷ Murata and Chittick, *The Vision of Islam*, 265.

⁸ See, for example, Majd al-Dīn Muḥammad ibn Ya'qūb al-Fīrūzābādī, *Baṣā'ir dhawī l-tamyīz fī laṭā'if al-Kitāb al-'azīz*, ed. Muḥammad 'Alī al-Najjār (Beirut: al-Maktabah al-'Ilmiyyah, n.d.), II, 68-70; al-Rāghib al-Iṣfahānī, *Mufradāt alfāz al-Qur'ān*, ed. Muḥammad Sayyid Kilānī (Beirut: Dār al-Ma'rifah, 1999).

facets of a single truth.⁹ Such a connection between *itqān*, referring to complete perfection, and the theme of beauty can be found in Riḍā's exegesis. He points out that "beauty" lies in being associated with perfection. In fact, perfection, according to him, is the quality of "beauty," and imperfection is the quality of "ugliness."¹⁰ In this respect, he perfectly agrees with his teacher, ʿAbduh.¹¹ Indeed, through Ibn ʿAshūr's explanation of the word *ḥusn*, he relates that which is beautiful to the quality of perfection and the absence of defects.¹²

Moreover, in the Qurʾānic text, a clear connection between the sense of "beauty" and perfection in terms of the absence of defects is drawn in verse Q 50:6: "*Do they not see the sky above them, how We have built and adorned it, with no rifts in it.*" This verse mentions the beautiful aspects of the sky. It seems to assert that one of the characteristics of "beauty" is the absence of shortcomings and confusion besides its adornment with stars, for instance. This absence of defects can be understood as perfection expressed in another way. Furthermore, it is worth noting here that aesthetic qualities such as brightness and radiance, or splendor, can be understood from the Qurʾānic aesthetic terms *naḍrab* and *nāḍirab* (radiant, glowing, and shining) from the root *n-d-r*.

2. Pleasing the Beholder

The second quality that can be characterized as "aesthetic" in Qurʾānic discourse acts through its impact on the self, as borne out by evidence in Qurʾānic verses. For example, in verse Q 2:69, "*God says it should be a bright yellow cow, pleasing to the eye.*" This sentence alludes to the fact that pleasure results from beholding "beauty." Al-Shaʿrāwī points to this when he states, "Whoever looks at it is pleased with its brightness, cleanliness, the elegance of its appearance, and the symmetry of its body."¹³ In fact, he defines *jamāl* by associating it with the pleasure generated in the self. Furthermore, in describing

⁹ Quṭb, *Fī Zilāl*, VI, 3633; Quṭb, *In the Shade*, XVII, 137.

¹⁰ Muḥammad Rashīd Riḍā, *Tafsīr al-Qurʾān al-ḥakīm al-mushtabir bi-ism Tafsīr al-Manār*, 2nd ed. (Cairo: Dār al-Manār, 1947), IV, 238.

¹¹ Muḥammad ʿAbduh, *Risālat al-tawḥīd* (Cairo: Dār al-Shurūq, 1994), 67-79.

¹² Muḥammad al-Ṭahir ibn ʿAshūr, *al-Taḥrīr wa-l-tanwīr* (Tunis: al-Dār al-Tūnisīyah, 1984), XXI, 215.

¹³ Al-Shaʿrāwī, *Tafsīr al-Shaʿrāwī*, I, 394.

Paradise in verse Q 43:71, “*Dishes and goblets of gold will be passed around them with all that their souls desire, and their eyes delight in,*” an obvious implication is that delight to the eye is one of the effects of beholding “beauty.” Ibn ‘Āshūr elucidates this by stating that the “delight of the eye is caused by seeing beautiful shapes and pleasing colors.”¹⁴ Indeed, for him, the delight of the eye leads to the delight of the self, “pleasure.”¹⁵

Moreover, it can be claimed that the word *bahjab* and its adjective *bahīj* can be considered, according to their linguistic meanings, obvious evidence that pleasure is an essential characteristic of “aesthetics” in Qur’ānic discourse. By association with prettiness, the power to delight and gladden us is more obvious in the connotations of the word *bahjab*. Indeed, it is worth mentioning here that the practice of defining “aesthetics” through its effect governs several discussions on “aesthetics” by both Aquinas and Kant, for example. They claim that “beauty” has a pleasant effect when perceived.¹⁶ With reference to an Islamic context, al-Fārābī associates pleasure with the comprehension of beautiful objects. He claims that pleasure increases according to the intensity of beauty in perceived objects. Behrens-Abouseif states that “the only universal principle that governed beauty in Arabic culture was its association with pleasure.”¹⁷

3. “Beauty” and the “Good”

One of the striking characteristics of “aesthetics” is its relation to the idea of function or usefulness or, in other words, its relation to the idea of “good.” Nwodo summarizes the historical background of the relation between the “beautiful” and the “good” by pointing out that identifying the good with the beautiful has been sustained by several philosophers and scholars since ancient Greece. Plato, for example, identifies the two without hesitation. In fact, Jacques Maritain claims that in Greek writings, the expressions for good and beautiful are equivalent. Indeed, both Aquinas and Scholastics maintain that the

¹⁴ Ibn ‘Āshūr, *al-Taḥrīr wa-l-tanwīr*, XXV, 255.

¹⁵ *Ibid.*

¹⁶ See, for example, Nwodo, “Philosophy of Art Versus Aesthetics,” 200; Felix M. Gatz, “The Object of Aesthetics: The Place of Beauty and Art in Aesthetics,” *The Journal of Aesthetics and Art Criticism* 1, no. 4 (Winter 1941-1942), 21.

¹⁷ Behrens-Abouseif, *Beauty in Arabic Culture*, 42.

beautiful, the good, and the true are “convertible.”¹⁸ Rosenthal asserts that the equation between “beauty” and “good” can be found in several languages, one of which is Arabic. He exemplifies his argument by claiming that the term *ḥusn* is used in Arabic to denote the good and *jamāl* to denote beauty.¹⁹

In Qurʾānic discourse, both previously mentioned tendencies can be found. The notion of beauty is mentioned in itself and identified with usefulness and goodness. About the association between “beauty” and usefulness, seen several times in the Qurʾānic text where “beauty” is mentioned, the idea of exercising a function or being useful is highlighted in, for example, verses Q 37:6, Q 41:12, and Q 67:5. Furthermore, derivatives from the root *ḥ-s-n* indicate that the senses of beauty and goodness are intertwined, as can be understood from their linguistic meaning and commentators’ texts. Lexicographers and Qurʾānic exegetes assert that one of the meanings of *ḥasan* and other related derivatives is something connected to utility or usefulness, whether material or abstract. In fact, the sense of usefulness and the good can be seen in this root more than in other “aesthetic” terms used in the Qurʾān. This is what justifies translating the term *ḥasan* and related derivatives in most cases as “good.”²⁰ Izutsu, for example, in his analysis of major concepts in the Qurʾān, treats the root *ḥ-s-n* in the semantic field of the concept of good. Indeed, he considers the derivation of the word *ḥasanah*, which is the feminine form of the adjective *ḥasan*, as synonymous, at least in a certain context, with the word *khayr*, which is also discussed in the same semantic field.²¹

Another quotation is verse Q 16:5-8, which shows that the sense of “beauty,” as mentioned in Qurʾānic discourse, expresses “being itself” in addition to being identified with usefulness and goodness: “*And livestock, He created them too. You derive warmth and other benefits from them: you get food from them; you find beauty in them when you bring them home to rest and when you drive them out to pasture.*”

¹⁸ Nwodo, “Philosophy of Art Versus Aesthetics,” 201.

¹⁹ Franz Rosenthal, *Four Essays on Art and Literature in Islam* (Leiden: E. J. Brill, 1971), 12.

²⁰ As mentioned above, Rosenthal uses the word *ḥasan* for “good” and *jamīl* for “beautiful.” See Rosenthal, *Four Essays on Art and Literature in Islam*, 12.

²¹ Toshihiko Izutsu, *Ethico-Religious Concepts in the Qurʾān* (Montreal: McGill University Press, 2002), 203-249.

They carry your loads to lands you yourselves could not reach without great hardship.” Here, it can be noted that “beauty” is mentioned in the context of two utilities, namely, “*You derive warmth and other benefits from them: you get food from them*” and “*They carry your loads to lands you yourselves could not reach without great hardship.*” At the same time, it can be argued that although “beauty” is mentioned between these two utilities, it is independent of both, in that the feeling of beauty aroused in the beholder when watching them, as it is made obvious in the verse, is not triggered by the utility derived from the cattle, i.e., the cattle are not beautiful in the eyes of people merely because they are useful to them but also because they satisfy a particular emotional need for the beholder.²² It can be concluded that although the verse, on the one hand, does not explicitly connect beauty with usefulness, it does not, on the other hand, separate the two concepts completely. In fact, it considers the feelings concerning beauty aroused by watching them as one of their benefits. That implies beauty is stressed as a distinct value in itself despite or regardless of other benefits, as shown above.

4. “Beauty” is Deliberately Placed

In the Qur’ānic view, beauty is a fundamental component of this universe and is intended in the origin of creation. In other words, it is not a superficial element in the universe but rather “an essential part of its nature.”²³ This view is asserted in several places in Qur’ānic discourse, a few of which are discussed here. First, in verse Q 32:7 mentioned earlier, “*who gave everything its perfect form.*” Clearly, this verse sufficiently emphasizes aesthetics as an indispensable element in the entirety of God’s creation. This conclusion is drawn from the Qur’ānic term *aḥsana*, which signifies the sense of aesthetics in addition to its implication in perfection and excellence. As discussed earlier in the first characteristic of aesthetics, *itqān*, verse Q 27:88 highlights the perfection and excellence of God’s creation, while verse Q 32:7 goes beyond by emphasizing the sense of beauty

²² See, Muḥammad ‘Imārah, *al-Islām wa-l-funūn al-jamīlah* (Cairo: Dār al-Shurūq, 1991), 18; Ṣāliḥ Aḥmad al-Shāmī, *al-Zābirah al-jamāliyyah fī l-Islām* (Beirut: al-Maktab al-Islāmī, 1986), 122; ‘Abbās Tawfīq, “Alfāz al-jamāl fī l-Qur’ān al-karīm,” 2-3. مقالة – الفكر القرآني|الفاظ الجمال في القرآن الكريم (quranicthought.com), accessed March 22, 2021.

²³ Quṭb, *Fī Zilāl*, V, 2984; id., *In the Shade*, XIV, 240.

through the usage of the aesthetic term *aḥsana*. Thus, verse Q 32:7 stresses that the Qurʾān mentions beauty as one of the intended purposes of creation.²⁴

Additional Qurʾānic examples that demonstrate that “beauty” is deliberately placed in the universe are verses Q 50:6 and Q 67:3-5, about the creation of the heavens. The notable point here, however, is that these verses go beyond describing the perfection of the creation of the heavens to emphasize the aspects of their beauty. In verse Q 67:3-5, “*who created the seven heavens, one above the other. You will not see any flaw in what the Lord of Mercy creates. Look again! Can you see any flaw? Look again! And again! Your sight will turn back to you, weak and defeated. We have adorned the lowest heaven with lamps and made them [missiles] for stoning devils.*” Thus, while the Qurʾān turns our attention to the perfection of heaven’s creation by challenging us to detect any flaw or defect, it specifically addresses its “beauty” and glory.

Considering the attitude of modern commentators, Quṭb, for example, asserts this characteristic several times. He points out that the aspects of perfection and excellence, and not merely what takes place in the existence of the universe, are reflected in the aspects of harmony, accuracy, balance, and perfect function; indeed, “beauty” is attained in the universe as a whole.²⁵ He says, “like perfection, beauty is deliberately placed in the universe.”²⁶

In summary, according to Qurʾānic discourse, beauty is intended in the universe. It is independently deliberated upon, not for the sole enjoyment of humans but rather as an integral component to serve a religious purpose along with the entire Islamic system.

5. Contemplating Beauty

It is worth mentioning that an interesting point in Qurʾānic discourses on “beauty” is that although the Qurʾān portrays instances of the beauty of the universe in extraordinary verses, it also specifically directs our attention to the contemplation of “beauty,”

²⁴ Discussion of the implication of the meaning of the word “everything,” mentioned in verse Q 32:7, is not intended in this regard. The focus here is on the connotations of the term *aḥsana*.

²⁵ Quṭb, *Fī Zilāl*, IV, 2133; id., *In the Shade*, X, 260.

²⁶ See Quṭb, *Fī Zilāl*, VI, 3633; id., *In the Shade*, XVII, 137.

which, in turn, indicates the significance of the entire concept of “aesthetics” within the fabric of Islam. Indeed, contemplating the beauty of God’s creation is one of the greatest ways of contemplating the universe and, at the same time, is generally considered a form of worship in Islam. This is what Malik Badri stresses in his book *Contemplation: an Islamic Psychospiritual Study* when he counts the observation of the beauty of the universe as one of the main methods to be found in the Qurʾān to encourage the contemplation of the creation of the universe.²⁷

In Qurʾānic discourse on “beauty,” it is clear that, as noted earlier, both “beauty” and the invitation to contemplate it are inevitably linked. Indeed, contemplation is a significant aspect deliberately placed in the discourse of “aesthetics.” This can be seen in verse Q 6:99, “*Watch their fruits as they grow and ripen.*” This verse comes in the context of describing the beauty of plants and therefore emphasizes the contemplation of their beauty more than any other aspect, i.e., that they can be eaten. Quṭb, while interpreting this verse, claims that the emphasis here is on the “splendid aspects of creation,” so we are invited to contemplate “beauty” rather than any other aspect since, through contemplation, the senses will be familiarized to appreciate such “beauty.”²⁸ Moreover, al-Shaʿrāwī has an interesting interpretation of the same verse; he claims that when God asks humans to contemplate “beauty,” He makes this contemplation a basic right for all individuals, whether they can benefit from it or not.²⁹ Indeed, al-Shaʿrāwī claims that the same view can be found in verses Q 16:6-7. He points out that God, before mentioning the benefit gained from horses, i.e., that they can be ridden, mentions their beauty before other benefits, as even if an individual does not own horses, he still can enjoy their beauty.³⁰

In this regard, it is worth pointing out that the significance of the notion of contemplation can be seen in most theories of aesthetics, as

²⁷ Malik Badri, *Contemplation: An Islamic Psychospiritual Study*, trans. Abdul-Wahid Luʿluʾa (Herndon: The International Institute of Islamic Thought, 2000), 57-58. See also, Javed Jamil, “Purpose of the Creation of Man: Quran’s True Vision of Anthropic Principle,” *International Journal of Islamic Thought* 15 (December 2019), 54.

²⁸ Quṭb, *Fī Zilāl*, II, 1161; id., *In the Shade*, V, 223.

²⁹ Al-Shaʿrāwī, *Tafsīr al-Shaʿrāwī*, VI, 3827.

³⁰ *Ibid.*

Dickie claims, from the time of Plato, for whom contemplation was a central theme in the theory of beauty.³¹ Furthermore, some scholars, such as Stolnitz and Austin, maintain that the aesthetic experience requires contemplation for its perception and hence its appreciation.³² However, Reid and Richmond, for example, claim that the aspect of contemplation in the experience of aesthetics has, in recent years, been neglected.³³

The notion of contemplating “beauty” or, more generally, contemplating God’s creation is, in Qurʾānic discourse, not for mere enjoyment or to evoke pleasure; it is rather a form of worship, as noted above. Muslim scholars enumerate many religious aspects achieved through contemplation, all of which serve the central theme of Islam: *tawḥīd*. This, as Quṭb states, can be summarized as follows: by contemplating the beauty of the universe, “we feel the link between the Creator and creation.”³⁴ More of these religious aspects will be discussed in further detail below.

6. Nature is the Vast Domain of Physical “Aesthetics”

The beauty of the universe or its natural beauty, in terms of physical beauty, in Qurʾānic discourse, is emphasized more than any other kind of physical beauty. Qurʾānic verses in different *sūrah*s refer to the wonders of the whole universe in its various physical phenomena. Qurʾānic discourse on the aesthetics of nature can be seen in a number of verses considered in this study, notably verses Q 16:6 and Q 16:8, which mention beauty in the creation of animals. In addition, beauty constitutes an essential aspect in the creation of the heavens and the earth, as seen in several verses, for instance, Q 15:16, Q 37:6, Q 41:12, Q 50:6, Q 10:24, and Q 27:60. In this respect, the beauty of humankind is emphasized as an object of special wonder, since, as al-Ghazālī claims, it is the “key to knowing the

³¹ Dickie, *Aesthetics: An Introduction*, 8.

³² Jerome Stolnitz, *Aesthetics and Philosophy of Art Criticism: a Critical Introduction* (Boston, Massachusetts: Houghton Mifflin, 1960), 35; M. R. Austin, “Aesthetic Experience and the Nature of Religious Perception,” *Journal of Aesthetic Education* 14, no. 3 (1980), 22.

³³ Louis Arnaud Reid, “Knowledge, Morals, and Aesthetic Education,” *Journal of Aesthetic Education* 2, no. 3 (July 1968), 50; John W. Richmond, “Reconsidering Aesthetic and Religious Experience: A Companion View,” *Journal of Aesthetic Education* 33, no. 4 (Winter 1999), 42.

³⁴ Quṭb, *Fī Zilāl*, V, 2808; id., *In the Shade*, XIII, 364.

greatness of the creator.”³⁵ The Qurʾānic references to the “beauty” of the human body can be seen in verses Q 33:52, Q 40:64, Q 64:3, and Q 95:4. In this regard, it is worth mentioning that derivatives from the root *z-y-n* are often used in the context of the beauty of the heavens and the earth, while derivatives from the root *ḥ-s-n* are used when referring to the beauty of human beings.

There is yet another aspect of the physical aesthetics mentioned in the Qurʾānic text; that is, the aspect of man-made beauty or what may be called “art.”³⁶ This kind of aesthetics is mentioned less often than the aesthetics of the natural world. It can be argued that the story of Solomon and the Queen of Sheba mentioned in verse Q 27:44 is the first verse that one might turn to in the Qurʾān for its implications about art. As Gonzalez claims in this regard, the aesthetic principles found in the *ṣarḥ* (palace) prepared for the visit of the Queen of Sheba to Solomon are widely applied in Islamic art and architecture.³⁷ In addition, the references to an ‘artistic aesthetic’ in Qurʾānic discourse include indirect references to what might be considered the Qurʾānic “consideration for art and architecture.”³⁸ These indirect implications can be seen, for example, in verses Q 7:74, Q 13:71, and Q 34:31. Hence, it should be remembered that, as Oleg Grabar observes, Qurʾānic discourse in this context does not contain what might be construed specifically as a theory of visual art; rather, a number of disjointed observations can be inferred that might have implications for art and architecture.³⁹

It is worth mentioning that the question of appreciating nature and art or defining the realm in which aesthetics can present itself has always been a matter of debate in Western aesthetics. Scholars such

³⁵ Carole Hillenbrand, “Some Aspects of al-Ghazālī’s Views on Beauty,” in *Gott ist schön und Er liebt die Schönheit: God is beautiful and He loves beauty: festschrift in honour of Annemarie Schimmel*, ed. Alma Giese and J. Christoph Bürgel (Bern: Peter Lang, 1994), 251.

³⁶ Ralph B. Winn, “The Beauty of Nature and Art,” *The Journal of Aesthetics and Art Criticism* 2, no. 5 (Spring 1942), 8; See also, Mojib Alzahrani, “The Concept of Esthetics and Beauty in Islam as One of the Components of Islamic Art,” *Journal of Education* 2, no. 88 (August 2021), 62.

³⁷ Valérie Gonzalez, *Beauty and Islam: Aesthetics in Islamic Art and Architecture* (London: I. B. Tauris: 2001), 37.

³⁸ Oleg Grabar, “Art and Architecture,” in *The Encyclopaedia of the Qurʾān*, ed. Jane Dammen McAuliffe (Leiden: Brill, 2002), I, 162.

³⁹ *Ibid.*

as Carlson and Hepburn claim that philosophical aesthetics neglected natural beauty and was dominated by an interest in art. Nature was appreciated through its representation in art and literature, although individuals have always responded aesthetically to the nature surrounding them.⁴⁰ In this context, Brady reminds us that in the classical period, the aesthetics of nature were of little interest and that philosophical aesthetics were equated with the philosophy of art. This position did not change until the eighteenth century when the appreciation of natural aesthetics reached a turning point. Kant was the first to represent a theory of the aesthetical appreciation of nature. Schelling and a few other thinkers in the nineteenth century were followed by a wider discussion of environmental aesthetics.⁴¹

7. “Subjectivity” and “Objectivity” of Aesthetics

An important characteristic of aesthetics in Qurʾānic discourse is what is famously known as subjective and objective theories, which Moore considers “the leading theories of beauty.”⁴² The question revolves around the idea that beauty can be identified both as an object in a substance (objective) or as referring to the experience of beauty (subjective), which means that beauty is merely an idea in the mind or a personal feeling toward an object. If so, the object itself cannot be described as beautiful or ugly, but only appears so according to our feelings.

When considering this issue from a Qurʾānic perspective, it may be said that although beauty in the Qurʾān is identified with emotional feelings, as indicated earlier, it can still be asserted that beauty in the Qurʾānic discourse is an objective reality inherent in a substance and not merely an impression formed by the beholder. This assumption can be substantiated through several pieces of evidence in the Qurʾānic text.

Through Qurʾānic discourse on identifying beauty by its effect on beholders, it can still be seen that these effects are phrased in a general pattern so that they encompass all beholders. In verse Q 2:69,

⁴⁰ Allen Carlson, *Aesthetics and the Environment: The Appreciation of Nature, Art and Architecture* (London: Routledge, 2002), 5.

⁴¹ *Ibid.*; Emily Brady, *Aesthetics of the Natural Environment* (Edinburgh: Edinburgh University Press, 2003), 32.

⁴² Jared S. Moore, “Beauty as Harmony,” *The Journal of Aesthetics and Art Criticism* 2, no. 7 (Winter 1942-1943), 41.

for example, “*God says it should be a bright yellow cow, pleasing to the eye,*” al-Sha‘rāwī asserts that it “includes anyone who looks at it.”⁴³ Apparently, if beauty were not a quality inherent in the object looked at, the pleasure would not involve any beholder. The same view is found in verse Q 43:71: “*Dishes and goblets of gold will be passed around them with all that their souls desire and their eyes delight in.*” Thus, the delight appeals to every eye. In addition, scholars such as al-Sayyid Maḥmūd al-Ālūsī mention that “*al-*” (the definitive article “the”) in the Qur’ānic word *al-a‘yun* (the eyes) refers to *istighbrāq*, which they take to mean that it encompasses all the addressees, in this case, all eyes that see Paradise.⁴⁴

As mentioned earlier, several terms are used in the Qur’ān to indicate a sense of aesthetics, each of which has its specific perspective in expressing one sense of the term. The concern here is that the term *ḥusn* and the other derivatives from the root *ḥ-s-n* denote an intrinsic quality in a “beautiful” object; therefore, its beauty is an objective quality.

With the use of the concept of *itqān* as an obvious element in the notion of aesthetics as presented in Qur’ānic discourse through the use of derivatives from the root *ḥ-s-n*, it can be asserted that the availability of such characteristics in a given object offers clear evidence that beauty represents an independent fact rather than a contingent feeling or emotional effect whose existence or nonexistence depends on the beholders.

Several verses in the Qur’ānic text invite us to contemplate the beauty inherent in God’s creation, as seen, for example, in verse Q 50:6: “*Do they not see the sky above them, how We have built and adorned it, with no rifts in it.*” Accordingly, if beauty is claimed to be an idea in the mind or a mere emotional feeling derived from a beautiful experience, such an invitation to contemplate the universe would have been preposterous or unachievable. For Muslims, according to verses Q 23:115 and Q 44:38-39, Allah transcends vanity, and His commands are free from such absurdity.

⁴³ Al-Sha‘rāwī, *Tafsīr al-Sha‘rāwī*, I, 394.

⁴⁴ Abū l-Faḍl Shihāb al-Dīn al-Sayyid Maḥmūd al-Ālūsī, *Rūḥ al-ma‘ānī fī tafsīr al-Qur’ān al-‘aẓīm wa-l-sab‘ al-mathbānī* (Beirut: Dār Iḥyā’ al-Turāth al-‘Arabī, n.d.), XXV, 99.

8. Religious Function of the Notion of Aesthetics

It can be argued that the notion of aesthetics in Qurʾānic discourse is not there for mere enjoyment or to evoke pleasure or simply a psychological state brought on by an eschatological form. Rather, it is always connected with moral and religious purposes and is not solely of emotional or eschatological concern. Indeed, Qurʾānic discourse concerning aesthetics aims to lead us to believe in God's existence and serve all Islam's commands and rituals. According to the verses under consideration in this study, it can be claimed that some religious purposes are fulfilled by the notion of aesthetics as presented in the Qurʾānic text; these are as follows.

8.1. *Tawḥīd* (Oneness of God)

As the most fundamental Islamic doctrine, which encapsulates the core of the Islamic faith, divine oneness is consistently asserted in various ways by the Qurʾān. The most obvious is by reflecting the beauty of the creation of the vast universe, including the creation of the human race. Reflecting on the beauty of God's creation, according to Qurʾānic discourse, brings us to know God, the Creator. Furthermore, it has been pointed out that in His creation and its beauty, Allah reveals himself, and the beauty of this universe is a reflection of divine beauty.⁴⁵ All the verses describing the beauty of nature reveal that this marvelous creation in its perfect form is a sign of Allah. Indeed, it shows not only God's existence but also His oneness, sovereignty, and unlimited power.⁴⁶ However, it is important to highlight here that this is one of the three basic features characterizing the doctrine of *tawḥīd* (in full, *tawḥīd al-rubūbiyyah*, the oneness of lordship), which signifies believing in one God: the sole Creator and Sustainer of the entire universe; *tawḥīd al-ulūhiyyah*

⁴⁵ See, for example, Daniel A. Madigan, "Themes and Topics," in *The Cambridge Companion to the Qurʾān*, ed. Jane Dammen McAuliffe (Cambridge: Cambridge University Press, 2006), 83; K. K. Aziz, *The Meaning of Islamic Art: Explorations in Religious Symbolism and Social Relevance* (Lahore: Al-Faisal, 2004), 1:9; Yūsuf al-Qaraḍāwī, *al-Islām wa-l-fann* (Cairo: Maktabat Wahbah, 1995), 9.

⁴⁶ Fazlur Rahman, *Islam and Modernity: Transformation of an Intellectual Tradition* (Chicago: Chicago University Press, 1982), 67. See also, Shaibatul' Islamiah Che Man et al, "'al-Jamaal' as a Concept of Islamic Aesthetics: From the Perspective of Religion and Art," *Journal of Computational and Theoretical Nanoscience* 13, no. 12 (December 2016), 2; William Chittick, "Love in Islamic Thought," *Religion Compass* 8, no. 7 (2014), 231-234.

(oneness of worship) also implies that Allah is the only deity worthy of worship and *tawḥīd al-asmā' wa-l-ṣifāt* (the oneness of God's names and attributes)⁴⁷ is to be discerned in Qur'ānic considerations of the notion of aesthetics embodied in the universe as a whole. The term *rubūbiyyah* is derived from the word *rabb*, which means "lord," "master," or "owner." This concept denotes the fact that there is only one God who created everything and who manages that creation. All manifest and subtle actions ultimately belong to this one God; nothing can be attributed to anyone other than Him.

This Qur'ānic fact, related to taking the beauty of the vast universe as proof of Allah's existence –that is, as a manifestation of God's other attributes, such as His power– is rehearsed many times in the Qur'ānic text, as seen in verse Q 37:4-6: "*Truly your God is in unity as well as sovereignty One, Lord of the heavens and earth and everything between them, Lord of every sunrise. We have adorned the lowest heaven with stars.*" Hence, it follows that highlighting the beauty discerned in the universe, i.e., the heavens being adorned with stars, is mentioned in the context of the oneness of God: the Creator and Sustainer of the diverse universe. Similarly, in verse Q 67:1-5, "*Exalted is He who holds all control in His hands; who has power over all things; who created death and life to test you [people] and reveal which of you does best; He is the Mighty, the Forgiving; who created the seven heavens, one above the other. You will not see any flaw in what the Lord of Mercy creates. Look again! Can you see any flaw? Look again! And again! Your sight will turn back to you, weak and defeated. We have adorned the lowest heaven with lamps and made them [missiles] for stoning devils.*" Here, the same argument is presented, the beauty of the universe is addressed in the same breath as God's power and sovereignty, which extends to the furthest universe in this worldly life and Hereafter. Thus, addressing beauty in the context of God being the single Creator of all this beauty surrounding human beings, in turn, will assert the oneness of God. In this regard, Quṭb presents the same view when he argues that what is mentioned in verse Q 67:3-11 signifies what was mentioned at the beginning of the *Sūrat al-mulk* (Dominion: Chapter 67), that the beauty of creation is an aspect of "God's complete

⁴⁷ Hussein Abdul Raof, "Tawhid," in *The Qur'an: An Encyclopedia*, ed. Oliver Leaman (London: Routledge, 2006), 651.

dominion of the universe.”⁴⁸ Elsewhere, he points out that appreciating the beauty of creation leads to knowing the Creator’s own beauty.⁴⁹

It might be claimed here that the most important conclusion in the relationship between the Qurʾānic notion of aesthetics and the doctrine of *tawḥīd* is that God consistently describes His divine names and attributes in the Qurʾān with the quality of *ḥusn* on four occasions in the same statement, *al-asmāʾ al-ḥusnā*, as seen in verse Q 7:180, “*The Most Excellent Names belong to God,*” in verse Q 17:110, “*the best names belong to Him,*” in verse Q 20:8, “*the most excellent names belong to Him,*” and in verse Q 59:24, “*The best names belong to Him.*” While Abdel Haleem translates the word *al-ḥusnā* as excellence and superiority, it is often translated as “beautiful.”⁵⁰ Hence, it can be argued that both translations are acceptable since the word *al-ḥusnā*, the feminine form of *al-aḥsan*, means “good” in addition to the quality of “beauty,” as established above; the word *ḥusn* denotes both the meanings of beauty and goodness. A similar argument is presented by Oliver Leaman. He claims that, although the word *al-ḥusnā* is frequently translated as “beautiful,” the sense of “goodness” might be considered the most appropriate meaning of the word *al-ḥusnā*.⁵¹ Likewise, Adil Salahi, in his translation of Quṭb’s exegesis, points out that “the Arabic adjective *al-ḥusnā*, translated as ‘the most gracious,’ also means “beautiful,” “attractive,” etc.”⁵²

Indeed, the most deep-seated quality subsumed in the meaning of the word *al-ḥusnā*, particularly when referring to God’s names and attributes, is the quality of “perfection.” In this regard, the qualities of

⁴⁸ Quṭb, *Fī Zilāl*, VI, 3631; id., *In the Shade*, XVII, 134.

⁴⁹ Quṭb, *Fī Zilāl*, VI, 3634; id., *In the Shade*, XVII, 138.

⁵⁰ It is widely known that the most famous translation of *al-asmāʾ al-ḥusnā* is “the beautiful names.” This translation can be found in several writers. See, for example, Abū Hāmid Muḥammad al-Ghazālī, *The Ninety-Nine Beautiful Names of God: al-Maḥṣad al-asnāʾ fī asmāʾ Allāh al-ḥusnā*, trans. David B. Burrell and Nazih Daher (Cambridge: The Islamic Texts Society, 1992); Gerhard Böwering, “God and His Attributes,” in *The Encyclopedia of the Qurʾān*, ed. Jane Dammen McAuliffe (Leiden: Brill, 2002), 2:317; Zeki Santoprak, “Allah,” in *The Qurʾān: An Encyclopedia*, ed. Oliver Leaman, (London: Routledge, 2006), 39.

⁵¹ Oliver Leaman, “Al-Rahman,” in *The Qurʾān: An Encyclopedia*, ed. Oliver Leaman (London: Routledge, 2006), 528.

⁵² Quṭb, *In the Shade*, XVI, 448.

beautiful, good, and perfect can be found in the interpretations by exegetes of the four verses mentioned above. Ibn ‘Āshūr, while interpreting the meaning of *al-asmā’ al-ḥusnā*, states several times that the quality of *ḥusn* is an inherent quality and an essential property of the object in question, not a transient feature that might not be appropriate or accepted by everyone. For him, the meaning of *al-asmā’ al-ḥusnā* indicates perfection since it refers to actual perfection. This perfection in God’s names and attributes can be discerned on two levels: first, that some of these names cannot be understood in any complete or comprehensive way except as describing God, such as *al-‘Azīz* (The Eminent), *al-Ḥakīm* (The Wise), *al-Ḥayy* (The Living), and *al-Ghanī* (The Self-Sufficient). Second, the meanings of other names will not be good or acceptable unless by the side of such divine names as *al-Jabbār* (The Compeller) and *al-Mutakabbir* (The Proud). Such names, as Ibn ‘Āshūr claims, cause corruption on the part of human beings, while on the part of the Divine, they signify justice.⁵³ Moreover, al-Sha‘rāwī expresses another aspect of perfection embodied in the meaning of *al-asmā’ al-ḥusnā*. He claims that the meaning of certain names in the mouths of human beings may not be identical to the condition of the person named. He gives the example of someone called *sa‘īd* (happy), who might be otherwise. For him, the excellence or the “beauty” in names rests in their being identical to the object named. However, as stated by Ibn ‘Āshūr, the name may be identical to the object named but not on the same high level, which will still be a kind of deficiency.⁵⁴ Thus, the account from al-Sha‘rāwī of a name’s meaning or not meaning a quality possessed by its owner does not require discussion. However, the most important aspect to mention here is that the divine names and attributes as described in the Qur’ān are the most beautiful, excellent, and perfect names, showing the appropriateness of these names to describe and praise God.

A different aspect can be discerned in the Qur’ānic discourse of aesthetics that may be included among the “tenets of faith,”⁵⁵ that the notion of aesthetics addressed within the context of God’s favors enumerated in the Qur’ānic text can be seen, for example, in verses

⁵³ Ibn ‘Āshūr, *al-Taḥrīr wa-l-tanwīr*, IX, 186-187.

⁵⁴ Al-Sha‘rāwī, *Tafsīr al-Sha‘rāwī*, XIV, 8808.

⁵⁵ Abdul-Raof, “Tawhid,” 651.

Q 16:2-18, Q 35:12, and Q 13:17. Hence, addressing aesthetics within the context of enumerating God's favors and blessings granted to all human beings in the heavens, the earth, and even in themselves implies that aesthetics is one of those favors that satisfies not only bodily needs but also all necessities and desires. However, as mentioned in the Qurʾānic text, verse Q 16:18, these uncountable favors function as reminders of God's blessings and mercy and are also signs for us to comprehend. Accordingly, reflecting on these favors or graces around us causes us to be grateful for such blessings and to express our gratitude toward God. More importantly, it turns us to believe in God. Thus, this conclusion of thankfulness to God and belief in him is frequently mentioned in Qurʾānic discourse on God's grace. For example, the words *tashkurūn* (to be grateful), *tadhakkarūn* or *yadhakkarūn* (to reflect, take heed), and *yatafakkarūn* (to think) are all used to invite human beings to express gratitude and deep comprehension and contemplation when they realize that beyond this wonderful creation is God with no partners, which signifies the crux of Islamic faith in *tawḥīd*.⁵⁶

8.2. Trials

According to Qurʾānic discourse, there is no doubt that trials and tribulations are aspects of God's law in creating this life, as seen in verses Q 11:7 and Q 67:2. Indeed, human beings as individuals or even nations are subject to trials and tribulations in this worldly life. The Qurʾānic text portrays from time to time different forms of trial by evil, as seen in verse Q 2:155, "*We shall certainly test you with fear and hunger, and loss of property, lives, and crops.*" Furthermore, different perspectives on the purposes behind all kinds of trials afflicting human beings are taken in the Qurʾānic passages. An example can be seen in verse Q 29:2-3: "*Do people think they will be left alone after saying 'We believe' without being put to the test? We tested those who went before them: God will certainly mark out which ones are truthful and which are lying.*" Another use of the Qurʾānic perspective on the reasons for the trials that afflict human beings, particularly believers, is shown in verse Q 47:31: "*We shall test you to see which of you strive your hardest and are steadfast; We shall test*

⁵⁶ See, for example, Quṭb, *Fī Zilāl*, IV, 2161; id., *In the Shade*, XI, 2; XIV, 143; Oliver Leaman, "Nature Live and the Qurʾān," in *The Qurʾān: An Encyclopedia*, ed. Oliver Leaman (London: Routledge, 2006), 452.

the sincerity of your assertions.” Thus, these verses make it quite clear that the purpose behind trials is to test human faith and submission to God’s will and power.

However, trials in the Qur’ānic concept are not limited to evil and hardship alone; they are extended to trials by what is good, as stated clearly in verse Q 21:35, “*We test you all through the bad and the good, and to Us, you will all return,*” and in verse Q 7:168, “*We tested them with blessings and misfortunes so that they might all return.*” Accordingly, one of the aspects of being tried by what is good, in Qur’ānic discourse, is trial by the notion of aesthetics. This is seen, for example, in verse Q 18:7, “*We have adorned the earth with attractive things so that We may test people to determine which of them do best,*” and in verse Q 20:131, “*and do not gaze longingly at what We have given some of them [other people] to enjoy, the finery of this present life: We test them through this, but the provision of your Lord is better and more lasting.*” Hence, it may be noted that the sense of aesthetics is expressed in the first verse by the word *zīnah* (adorned) and in the latter verse by the word *zabrah* (finery), which occurs only in this location. Ibn ‘Āshūr explains the purpose of trials by the form of good, in general, and by aesthetics, in particular. He points out that this kind of trial arouses some people to contemplate their Creator and be thankful to Him, which will lead to the enhancement of faith in and worship of God. What matters most is to deal with it according to God’s commands. To do otherwise would be to deny the Creator and the wisdom behind creation. People may also submerge themselves in sensory enjoyment without expressing their gratitude to and worship of God or with no concern for what God had made in the Hereafter of sublime splendors.⁵⁷ Moreover, Quṭb considered being tried by what is good and pleasurable to be more difficult than being tested by hardship. For him, being tested by something with evil and hardship is still endurable; one is not overawed and maintains one’s dignity. In contrast, few can withstand being tried by something good since it tempts one to continue, despite the loss of dignity or the bearing of humiliation, to acquire it and not to lose it.⁵⁸ Elsewhere, he adds that trials by all the wonders, comforts, and pleasures God bestows on us in this world prove which of us are

⁵⁷ Ibn ‘Āshūr, *al-Taḥrīr wa-l-tanwīr*, XV, 257.

⁵⁸ Quṭb, *Fī Zilāl*, IV, 2377f.; id., *In the Shade*, XII, 24f.

good and which will deviate from the right path.⁵⁹ Indeed, this kind of trial segregates those who pursue worldly pleasures from those who are preoccupied with the noble rewards that God has guaranteed for people who have withdrawn their desires from the chance of being controlled by earthly wonders and pleasures.⁶⁰

Thus, it should be clear through this aspect in Qurʾānic discourse that aesthetics can be seen as a form of trial and that the notion of “aesthetics” deliberately placed in this universe is not unworthy of inclusion in the Qurʾān. Quṭb claims, in this regard, it is:

an encouragement to hold on to true and lasting values, to maintain one’s ties with God, and be contented. This is the best way to resist the temptation of the splendor and attractions of this life. When we maintain such values, we are free to rise above the lure of false temptations, splendid as they may appear.⁶¹

Indeed, he maintains that this aspect of aesthetics in the Qurʾānic outlook purifies and exalts the human soul, prevents it from being ridden by physical earthly pleasures, and enables people to experience earthly pleasures and the benefits of them appropriately, according to the Qurʾānic view of them as *zabrah*, things whose splendors fade before long. Indeed, it will maintain the link with God, as He promotes those who fall under the spell of worldly splendors at the cost of the noble and sublime wonders provided in the life Hereafter.⁶²

8.3. Worship of God

In Islam, the sense of aesthetics has an essential role in the concept of worship; it is considered a requirement that must be fulfilled in performing worship to be accepted by God. The Qurʾān confirms this accompaniment to prayer as a kind of worship, with the notion of “aesthetics” in verse Q 7:31, “*Children of Adam, dress well whenever you are at worship.*” In this verse, the Qurʾānic word *zīnah* is translated, by Abdel Haleem, as “dress well,” and this translation can be understood according to the jurisprudential interpretation of the meaning of the word *zīnah*, according to the interpretation of

⁵⁹ Quṭb, *Fī Zilāl*, IV, 2258; id., *In the Shade*, XI, 194.

⁶⁰ Quṭb, *Fī Zilāl*, I, 373f.; id., *In the Shade*, II, 29f.

⁶¹ Quṭb, *Fī Zilāl*, IV, 2357; id., *In the Shade*, XI, 368.

⁶² Quṭb, *Fī Zilāl*, I, 374; id., *In the Shade*, II, 30f.

most scholars.⁶³ However, others, for instance, Riḍā, claim that, rather than being well-dressed, the meaning of *zīnab* in this verse can be understood in a comprehensive way, which includes several kinds of *zīnab*, according to what is known in each community.⁶⁴ This may extend to the width of Ali's application:

Beautiful apparel: zinah adornments or apparel for beautiful living: construed to mean not only clothes that add grace to the wearer, but toilet and cleanliness, attention to hair, and other small personal details which no self-respecting man or woman ought to neglect when going solemnly even before a great human dignitary, if only out of respect for the dignity of the occasion. How much more important it is to attend to these details when we solemnly apply our minds to the presence of God.⁶⁵

Considering the circumstances in which this verse was revealed, an important inference about aspects of the Qur'ānic outlook on the notion of "aesthetics" must be drawn. Al-Wāḥidī (d. 468/1076) reports that in pre-Islamic days, Arab pagans, except the *Ḥumus* (the people of *Quraysb* and their descendants), used to perform a *ṭawāf* (circumambulation) around the *Ka'bah* (the Sacred House) in stark nakedness. This verse was revealed to prohibit a pre-Islamic Arab practice and command people to adorn themselves when at worship.⁶⁶ Scholars such as Riḍā and Quṭb comment that this immodesty was found in the pre-Islamic era, not only among Arabs but also among many nations, which even currently indulge in similar practices (nakedness).⁶⁷ Thus, Qur'ānic discourse makes clear throughout this verse and the preceding verses (Q 7:26-29) that nakedness and the immodest exposure of the body are not aesthetic practices or kinds of adornment but rather the evil influence of Satan, as stated clearly in these verses. These verses refer to an essential aspect of the story of Adam and Eve, in which they are sent down to

⁶³ See, for example, Ibn 'Āshūr, *al-Taḥrīr wa-l-tanwīr*, VIII, 92-94; Quṭb, *Fī Zilāl*, III, 1282; id., *In the Shade*, VI, 63; Riḍā, *Tafsīr al-Manār*, VIII, 380f.

⁶⁴ Riḍā, *Tafsīr al-Manār*, 8:381.

⁶⁵ 'Alī, *The Meaning of the Holy Qur'ān*, 351.

⁶⁶ Abū l-Ḥasan 'Alī ibn Aḥmad al-Wāḥidī, *Asbāb nuzūl al-Qur'ān*, ed. Kamāl Basyūnī Zaghlūl (Beirut: Dār al-Kutub al-'Ilmiyyah, 1991), 228-229.

⁶⁷ Riḍā, *Tafsīr al-Manār*, VIII, 382f.; Quṭb, *Fī Zilāl*, III, 1283; id., *In the Shade*, VI, 52f., 58. See also Sayyid Abul A'la Mawdūdī, *Towards Understanding the Qur'ān: Abridged Version of Tafhīm al-Qur'ān*, trans. & ed. Zafar Ishaq Ansari (Leicester: The Islamic Foundation, 2006), 309.

earth because, under Satan's influence, they went about naked. Indeed, these verses comment on human beings, that beautifying their bodies not only covers their private parts but, as most scholars and Qurʾān exegetes agree, for instance, Riḍā and Quṭb, requires them to wear proper apparel, which gives them a decent appearance.⁶⁸

According to Quṭb, human beauty is the beauty of dress and cover. In contrast, appearing naked is not beautiful, and those who consider it so “suffer from a distortion of human taste” and a corrupted human nature, which intrinsically abhors the exposure of bodily nakedness.⁶⁹ For Riḍā, Qurʾānic guidance on the prohibition of nudity in public and the commands for adornment are basic aspects of the Islamic vision of religious and secular reformation. This aspect can be understood in light of ancient civilization. Even in our own day, human civilization sometimes departs from modesty and indulges in revealing nakedness. However, when Islam penetrates a society, it promotes the values of modesty and reserve, which are not mere aspects of civilization but aspects of faith and worship.⁷⁰

8.4. Pure and Ultimate Rewards for Believers

A cursory look through the Qurʾānic text reveals that the Qurʾān promises, via the aesthetics of Paradise, pure and ultimate rewards for believers in the Hereafter, as well as the secular “aesthetic” pleasures created for them and all human beings to enjoy in this world. This function is stated in verse Q 7:32, “Say [Prophet], ‘Who has forbidden the adornment and the nourishment God has provided for His servants? Say, ‘They are [allowed] for those who believe during the life of this world: they will be theirs alone on the Day of Resurrection.’” This verse, however, promises that pure aesthetics, using the Qurʾānic word *khāliṣah* (pure), in all its various forms, will be there in the Hereafter for all who offer their submission to God during the life of this world.

Regarding the meaning of the word *khāliṣah* in this verse, the Qurʾānic exegetes chosen for this study all agree that “the adornment and the nourishment” mentioned are exclusively for believers on the

⁶⁸ Riḍā, *Tafsīr al-Manār*, VIII, 380f.; Quṭb, *Fī Zilāl*, III, 1283; id., *In the Shade*, VI, 63. See also Mawdūdī, *Towards Understanding the Qurʾān*, 310.

⁶⁹ Quṭb, *Fī Zilāl*, III, 1275; id., *In the Shade*, VI, 51f., 58.

⁷⁰ Riḍā, *Tafsīr al-Manār*, VIII, 382f.

Day of Resurrection. Unbelievers will not deserve such rewards.⁷¹ Another aspect of the meaning of the word *kbāliṣah* is added by exegetes such as al-Sha‘rāwī: that this ultimate reward, for believers exclusively, will be pure and devoid of all circumstances that might lessen their enjoyment, as seen in the earthly life. Al-Sha‘rāwī exemplifies that these circumstances are of individual conditions which might prevent a person from complete enjoyment, such as sickness, weakness, or poverty.⁷² The Qur’ān, however, vividly portrays the beauty of Paradise in several passages.

9. Negative Aspects

In Qur’ānic discourse, negative aspects of the notion of aesthetics are addressed. This is known by scholars, both Qur’ānic exegetes and Arabic lexicographers, as *zīnah ma’tbūmah* (blameworthy adornment). This duality in the notion of “aesthetics” from the Qur’ānic perspective results from the nature of the duality of good and evil in creation. It relates to the fact that human beings in this world, as discussed, are subject to trials by both aspects of aesthetics.

It is worth mentioning that the negative aspects of aesthetics in Qur’ānic discourse are expressed through the derivatives of the roots of both *z-y-n* and *z-kb-r-f*, which denote additional qualities in a substance that are not recognized as original. This result confirms that the negative aspects of aesthetics are not original features inherent in the purpose of the existence of aesthetics; they are rather external influences, or more precisely, evil acts either from *shayṭān* (Satan) or another unnamed agent, as can be found in the Qur’ānic discourse shown below.

Another essential aspect should be mentioned regarding using derivatives of the root of *z-y-n*, particularly, to express negative aspects of aesthetics. This is because since such aspects are negative, they need to be adorned, decorated, and embellished in terms that will make them acceptable and enjoyable to human beings. In fact, as Quṭb and Riḍā claim, human beings will not commit wicked deeds unless they are made to seem fair and attractive by the Devil’s agency, whether it is by Satan’s devilish whispers or by human beings

⁷¹ Ibn ‘Āshūr, *al-Taḥrīr wa-l-tanwīr* VIII, 96f.; al-Sha‘rāwī, *Tafsīr al-Sha‘rāwī*, VII, 4115; Riḍā, *Tafsīr al-Manār*, VIII, 390.

⁷² Al-Sha‘rāwī, *Tafsīr al-Sha‘rāwī*, VII, 4115.

themselves to each other, known as *quranāʾ* (companions) or *shurakāʾ* (partners), as mentioned in verses Q 6:137 and Q 41:25, or as *hawāʾ*, which are a person's own Satanic desires, as seen, for example, in verse Q 47:14.⁷³ Riḍā stresses that without the *tazyīn* for these negative aspects of aesthetics, whether physical or moral, one might refuse to commit them and might comprehend their harmful and negative traits and thus their consequences both in this world and in the Hereafter.⁷⁴ In this regard, Quṭb concludes that human beings need to keep in mind when they find something attractive that this weapon may come from Satan to deceive them.⁷⁵

Another important aspect should be stated regarding Qurʾānic discourse on the negative aspects of the notion of aesthetics, which is that it applies to the moral context as well as the physical. In terms of the moral context, it can be noted that what is addressed as a negative aspect of aesthetics is evil deeds and disobedience to God's commands and obligations. Examples of these deeds are arrogance and not turning to God (see verse Q 6:43), permitting what God has forbidden (see verse Q 9:37), and abandoning the way presented by Messengers (see verse Q 16:63). However, few details are given about what can be considered the negative physical aspects of the notion of aesthetics articulated in Qurʾānic discourse. The aspect most often mentioned is, according to the Qurʾānic statement, *zīnat al-ḥayāb al-dunyā* (the attractions of this worldly life), as in verses Q 2:212 and Q 18:28, 46. A similar statement, *al-ḥayāb al-dunyā wa-zīnatubā* (the life of this world with all its finery), is found in verses Q 11:15, Q 28:60, and Q 33:28. As pointed out by Qurʾānic exegetes such as Ibn ʿĀshūr, *zīnat al-ḥayāb al-dunyā* encompass all worldly desires, splendors, lusts, and all of this world's various enjoyments.⁷⁶ Furthermore, the attractions of this worldly life can be seen in the greatest detail in verse Q 3:14: "*The love of desirable things is made alluring for men –women, children, gold and silver treasures piled up high, horses with fine markings, livestock, and farmland– these may be the joys of this life.*" Other blameworthy aspects of physical aesthetics are the kinds that are set out for unbelievers and

⁷³ Quṭb, *Fī Zilāl*, IV, 2141; id., *In the Shade*, X, 274; Riḍā, *Tafsīr al-Manār*, III, 238.

⁷⁴ Riḍā, *Tafsīr al-Manār*, III, 238.

⁷⁵ Quṭb, *Fī Zilāl*, IV, 2141; id., *In the Shade*, X, 274.

⁷⁶ Ibn ʿĀshūr, *al-Taḥrīr wa-l-tanwīr*, II, 294.

disobedient human beings, such as Pharaoh and Qārūn, mentioned in verses Q 10:88 and Q 28:79. Very closely connected to the negative physical aesthetics mentioned in the Qurʾānic passages are the commandments to believing women not to reveal their adornment before others, except a number of their relatives and other persons, as listed in verse Q 24:31. Hence, it must be stated that these kinds of aesthetics are blameworthy since female beauty is not being used according to God's commands and guidance but instead for temptation and leading others astray.

Thus, by highlighting two distinct aspects of the Qurʾānic outlook on the negative aspects of the notion of aesthetics, we may conclude the following. First, that worldly aesthetics is not forbidden or undesirable in principle since it is Allah who has brought it forth for His creatures to enjoy, so obviously it is not intended to be forbidden. It is prohibited when it does not fulfill its religious purpose, when it tempts human beings away from the right path revealed by God, or when it is used to lead others astray. It is forbidden when it leads people to become overwhelmed by earthly splendors and not see God's greater rewards in the life Hereafter.⁷⁷ Second, in several passages in which these worldly aspects are disdained, the Qurʾānic text transfers attention to the greater and sublime pleasures granted by God in the Hereafter to those who guard themselves against evil whispers by obeying God's guidance and worshipping him (see verses Q 18:46, Q 28:6 and Q 57:20).

Furthermore, unbelievers and unfaithful servants are those addressed in these negative contexts, as shown in verse Q 15:39: "*Iblīs then said to God, 'Because You have put me in the wrong, I will lure mankind on earth and put them in the wrong, all except Your devoted servants.'*" The same meaning is found in verses Q 2:212, Q 6:122, Q 10:12, and Q 47:14 as well. There seems to be no doubt that all human beings are subject to the Devil's temptation, except God's devoted servants. They guard themselves against evil by obeying God and following the divine path of right, looking forward to what God has granted for them in the Hereafter.

Moreover, it can be noted that in Qurʾānic discourse, such negative aspects of the act of adornment are ascribed in two verses to

⁷⁷ Quṭb, *Fī Zilāl*, I, 214f.; id., *In the Shade*, I, 262f.

Allah (see verses Q 6:108 and Q 27:4). The Qurʾānic exegetes under consideration are in consensus that this kind of ascription cannot be understood as its literal meaning but is better understood in light of human nature, which has the intrinsic quality of being inclined to aesthetic objects, whether they are acceptable and permissible or of the forbidden and false kind; Allah is the only One who has created this human quality, so the term refers to this inner quality, created by Allah, not to the act that shows it.⁷⁸ Quṭb comments that God has molded humans' nature in such a way that they love pleasure, good or bad, and each one thinks he has done well and defends his actions.⁷⁹ A similar view comes from Ibn ʿĀshūr that it is a human propensity to be tempted by what is aesthetic. However, people exaggerate their impulse to pursue such pleasure without heeding God's guidance.⁸⁰ Elsewhere, he makes the same point, claiming that it is God who endows human beings with the ability to make their deeds seem fair and attractive even when they are not.⁸¹ Thus, parallel with this view, it should be mentioned that although God molds human nature with the ability to love and enjoy what is aesthetic, he does not leave people without guidance to the right path in enjoying what he has created for their pleasure. This fact is asserted several times in the Qurʾān, for example, in Q 18:66. Another essential aspect should be addressed here, that as a matter of fact, as seen in the implications of verse Q 7:32, the fundamental perspective in the Qurʾānic outlook on the notion of aesthetics is that the beauty of the world is created for human beings to enjoy and to satisfy their needs. It is, initially, permissible unless it contradicts God's commands. Hence, human beings are naturally created to love and adore these worldly enjoyments.

However, the adorning of negative kinds of aesthetics is ascribed mainly to *shayṭān* (Satan or the Devil), as seen, for example, in verses Q 6:43, Q 8:48, Q 16:63, and Q 29:38. What has been ascribed to the Devil in the Qurʾān is notably that he can make evil deeds seem good, fair and attractive, as in verse Q 6:43, "*If only they had learned*

⁷⁸ See, Riḍā, *Tafsīr al-Manār*, III, 239; VI, 667f.; Ibn ʿĀshūr, *al-Taḥrīr wa-l-tanwīr*, II, 294; VII, 433; al-Shaʿrāwī, *Tafsīr al-Shaʿrāwī*, II, 898.

⁷⁹ Quṭb, *Fī Zilāl*, 2:1169; V, 2627; id., *In the Shade*, V, 232; XIII, 85.

⁸⁰ Ibn ʿĀshūr, *al-Taḥrīr wa-l-tanwīr*, II, 294.

⁸¹ *Ibid.*, VII, 433.

humility when suffering came for Us! But no, their hearts became hard, and Satan made their foul deeds alluring to them,” and in verse Q 27:24, “I found that she and her people worshipped the sun instead of God. Satan has made their deeds seem alluring to them and diverted them from the right path: they cannot find the right path.” Ibn ‘Āshūr claims that this act by the Devil of alluring human beings is a metaphor for sins, evils, and false deeds.⁸² Moreover, in Qur’ānic discourse, in verse Q 15:39, “*Iblīs then said to God, ‘Because You have put me in the wrong, I will lure mankind on earth and put them in the wrong, all except Your devoted servants,’*” the Devil declares that his weapon is to deceive and lead human beings astray from God’s guidance through *tazyīn* (adorning, alluring and tempting), according to the Qur’ānic text. Quṭb, in his interpretation of the same verse, states that it is *Iblīs* himself who has chosen the battleground, which is the earth, and he also states what he will use for a weapon. He will simply tempt mankind by making what is foul appear fair so that they are tempted to engage in it.⁸³

In several verses, the agent who tricks out evil, the negative kind of aesthetics, is left unnamed, as in verses Q 2:212, Q 2:14, and Q 10:12. Accordingly, the Qur’ānic exegetes selected for this study ask who makes these negative aspects seem fair and attractive. They present two major answers to this question. In fact, these two tendencies are the same as presented above, which can be summarized as follows: first, the agent for making such negative aspects or false deeds seem fair and attractive is Allah since he ingrained this natural inclination in human beings toward worldly allurements, with the emphasis by commentators, as mentioned earlier, that this ascription should be understood in terms of the realities and nature of human beings, created by none other than Allah. It is not Allah that tempts human beings to gratify their prohibited worldly desires.⁸⁴ Qur’ānic commentators, such as Quṭb and Riḍā, mention that this ascription to Allah can be understood only to say that human beings are tested by these prohibited deeds and desires to see how they will conduct themselves and in what way

⁸² Ibn ‘Āshūr, *al-Taḥrīr wa-l-tanwīr*, XIV, 194.

⁸³ Quṭb, *Fī Zilāl*, IV, 2141; id., *In the Shade*, X, 274.

⁸⁴ See, Riḍā, *Tafsīr al-Manār*, III, 239; VI, 668-667; Ibn ‘Āshūr, *al-Taḥrīr wa-l-tanwīr*, II, 294; VII, 433; al-Sha‘rāwī, *Tafsīr al-Sha‘rāwī*, II, 898.

they will enjoy them, in light of God's commands.⁸⁵ Second, the one who makes things "alluring" is Satan, by his evil whispers, which make evil desires seem good and attractive.⁸⁶ Moreover, in explaining the purpose of not specifying who makes evil alluring, Qurʾānic commentators such as Ibn ʿĀshūr claim that this Qurʾānic practice is intended to put great emphasis on the act rather than the one who commits it to give a general warning and to attach criticism more to the behavior than to the person. This being the case, the doer may take heed and return to his Lord and repent of the acts that he has been warned against.⁸⁷

Conclusion

Since no unified definition embraces the essence of aesthetics, investigating the qualities that characterize aesthetics may capture, to some extent, its nature. However, this study analyzed several qualities that characterize the notion of aesthetics in the Qurʾānic text. The first of these qualities is that aesthetics embodies *itqān*. This characteristic comprises various aesthetic qualities, such as order, harmony, proportion, balance, etc. The modern Qurʾānic commentators selected for this study assert that the quality of *itqān* is often mentioned, in Qurʾānic discourse, as a basis for aesthetics. The second characteristic mentioned is that aesthetics is defined by its impact on the beholder, i.e., pleasure. This aesthetic feature is more obvious in the connotations of the aesthetic terms derived from the root *b-h-j* mentioned in the Qurʾān: *bahjah* and *bahj*. Another essential quality mentioned is that in the Qurʾānic view, aesthetics is inseparable from goodness. This relationship is obvious in the aesthetic terms derived from the root *h-s-n*.

Furthermore, in the Qurʾānic view, aesthetics is intended in the origin of God's creation, and human beings, in turn, are invited to contemplate it. According to Qurʾānic discourse, this leads to the knowledge of the Creator. Aesthetics, indeed, is "a dimension of

⁸⁵ Quṭb, *Fī Zilāl*, III, 1201; id., *In the Shade*, V, 256f.; Riḍā, *Tafsīr al-Manār*, III, 246; VII, 670.

⁸⁶ See, Ibn ʿĀshūr, *al-Taḥrīr wa-l-tanwīr*, II, 294; al-Shaʿrāwī, *Tafsīr al-Shaʿrāwī*, II, 898; Riḍā, *Tafsīr al-Manār*, III, 239.

⁸⁷ Ibn ʿĀshūr, *al-Taḥrīr wa-l-tanwīr*, III, 180; VIII, 46; XXVI, 93f.

reality,” not a subjective state in the eye of the observer.⁸⁸ In the Qur’ānic presentation of aesthetics, the universe is the vast realm of physical aesthetics. Aesthetics in the Qur’ānic view is not for emotional enjoyment or mere intellectual analysis but for religious functions. It has major roles in some religious aspects, as shown above. Finally, the Qur’ān addresses an important perspective related to aesthetics. It relates to the delusive aspects of aesthetics when it becomes alluring and causes human beings to deviate from the purpose of their creation according to the Qur’ān, i.e., worshipping Allah.

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⁸⁸ Seyyed Hossein Nasr, *The Heart of Islam: Enduring Values for Humanity* (New York: HarperCollins, 2002), 222.

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BOOK REVIEWS

Travelling Home: Essays on Islam in Europe by Abdal Hakim Murad

Makmor Tumin



The Study Quran: A New Translation and Commentary edited by
Seyyed Hossein Nasr, Caner K. Dagli, Maria Massi Dakake, and
Joseph E. Lumbard

Abdul Mufid



*Sufismus und Theologie - Grenze und Grenzüberschreitung in der
islamischen Glaubensdeutung* by Reza Hajatpour

Hayrul Nisa Ateş



Travelling Home: Essays on Islam in Europe by Abdal Hakim Murad (Cambridge: The Quilliam Press, 2020), x + 294 pp., ISBN 9781872038209 (paperback, \$24.55; E-book as PDF or ePub, \$9.97).

Religious societies in Europe, especially Christianity and Islam, have been in total disarray since the birth of atheism, much like that of a cat being thrown into a flock of pigeons. Scientism underestimates the teaching of Christianity as they believe that science has successfully flown people to the moon. Muslim radicalists, on the other hand, are condemned as only being good at flying people toward buildings.

With such a gruesome background, Dr. Timothy Winter, or Shaykh Abdal Hakim Murad, has been consistent with his approach of Sufism in dealing with nearly all earthly issues. His latest book, “Travelling Home,” explains how the problem of Muslims, in particular, can be solved through such a theological and mystical approach. With layers of themes and prose, he presented his book encompassing nine chapters, in which a few of the chapters require special and separate reviews. Given the density and complexity of the ideas presented in this book, the reviewer takes a selective approach in making the main idea of this book accessible to a larger audience.

In Chapter One (“Can Liberalism Tolerate Islam?”), the shaykh demonstrates how liberalism has become increasingly intolerant or tolerating none other than themselves. The problem worsens as they embed liberal ideas on state neutrality, as intolerance and matters on sexuality contaminate them. This applies not merely to Muslims, but those with other faiths are discriminated against and persecuted. Such a pathogen is an epidemic, and Muslims are advised to be therapeutic instead of pathogenic against such matters.

The practice he proposes is perhaps an important suggestion for Muslims responding to Islamophobia. Chapter Two (“Muslims and

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National Populism”) is where we can learn and follow Shaykh’s prescription. Expecting the Muslims to compare the persecution faced by Muslims today with the persecution suffered by the great companions during the early times of Islam, Shaykh Abdal Hakim Murad proposes the term “Lahabism” instead of Islamophobia. The term is more indigenously Islamic and links the current saga of hatred to Abū Lahab, the uncle of the Prophet Muḥammad (PBUH), who hated Islam and Muslims in the past.

Muslims are soul attractors, the Shaykh asserted. Hence, it is wrong to practice *tanfīr*, driving people away from Islam and responding with an eye for an eye. Another important piece of advice he asserted is that imitations of the West are wrong, and it is equally wrong to have “race-templates,” which is having ethnic mosques/communities as a “back at home” culture in Europe.

Religionists must understand that the issue of Lahabism is spiritualistic and not rationalistically wrong-headed. Humankind is blessed with the longing for truth and God, and praying is a form of better *da‘wah* to them.

Chapter 3 and 4, as indicated earlier, deserves a separate review, and it suffices to say in this limited space that in Chapter 3 (on “British Muslims and the Rhetoric of Indigenisation”), the Shaykh narrates about British history and how those who belonged to the Abrahamic faith fit in there. In Chapter Four (“Islamophobia and the Bosnian War”), he highlights that the Bosnian Muslims were targeted uniquely for their religion, and the Serbs saw themselves committing religious acts.

Not only is the *tanfīr* mentioned once earlier, but in Chapter Five (“The Venomous Bid‘ah of Tanfīr”), Shaykh Abdal Hakim Murad claims that the rise of both anger and ignorance produces a firebrand in Islam, turning it into a domestic ideology. On top of that, terrorism and state coercion are responsible for the youths in the Muslim world drifting away from the right path.

The Shaykh stated that “it is the state of the believer who is agitated by fearfulness and unavowed envy, and who based on that agitation throws himself into religion with the assumption that narrowness is a synonym for piety, and a sign of sincerity and refusal to compromise with falsehood.”

The Shaykh reminds us that God is in control of all things. In the short chapter of Chapter Six (“Good Anger, Bad Anger, and Shirk al-Asbāb”), the Shaykh compares the philosophy of cosmopolitanism versus zealotism by mentioning that in order for the prophetic counsel to become virtuous is not through becoming a Stoic, emotionally frigid, and impassable Vulcan; but rather to use the emotions as God wishes and not in vengeful obedience towards the self.

The message that Shaykh Abdal Hakim Murad puts forth is very strong, in which Islamists should trust in His Majesty as the foundation of their movement, responding to injustice against not only Muslims but also those who were wronged by attracting instead of repelling the souls guided by The Most Compassionate, free from anger, let alone violent counter-reactions.

“An eye for an eye will make the whole world blind,” as Gandhi once said, and in Chapter Seven with its slightly wordy title (“Push Back with Something More Beautiful (Q 41:34): Minority Muslims from Complainants to Therapists”), the Shaykh highlights on the science of doing beautiful things in Islam.

For this purpose, the Shaykh strengthened his case, making a detailed account of Sūrat Fuṣṣilat by citing the works of Ibn Jarīr al-Ṭabarī (d. 310/923), al-Qāḍī al-Bayḍāwī (d. 685/1286), and Fakhr al-Dīn al-Rāzī (d. 606/1209). According to the shaykh, these cited works mention the verse in Sūrat Fuṣṣilat’s specificity in informing Muslims to push back evil with something “more beautiful”.

Discussions under Chapter Eight for the reviewer are really head-scratching. In this chapter, the Shaykh titles it “A Theology of Ahl al-Kidhāb,” dealing with the dilemma of “Christophobia,” such as that in Spain, for instance, where churches have been burned at the hands of atheist extremists, with a bomb exploding in the Saragossa Cathedral.

In another place, the Shaykh mentions that incidents frequently occur in which feminist groups, LGBT activists, pro-abortion groups, and others break into churches, sometimes interrupting the mass, shouting and staging various provocations (nudity, gay “kisses,” etc.). Undoubtedly, atheists are in the lamplight of religious abhorrence.

The Shaykh terms this movement or group Ahl al-Kidhāb or the People of Denial. Denying the *fiṭrah* of the longing for God in them, Muslims should practice the act of attracting these souls, mingling with them instead of committing convivial situations.

In search for an authentic Islamic teaching, in Chapter Nine (“Seeking Knowledge: The Multiple Horizons of British Islamic Studentship”), the Shaykh lays down a significant reminder. According to him, insisting on tolerating proximity is only one of the requirements, and it is equally important to hold a creative and mutually helpful dialogue.

By doing so, he is hopeful that a return of a culture of diversity as intrinsic to the authentic and uncompromising Muslim’s pursuit of truth will prevail, and the rejection of the new totalitarian narratives of a singular Islam will materialize in the process.

That would require a syllabus that is “carefully hybridized such as the ones available in the Cambridge Muslim College in the UK, the College of Islamic Studies in Qatar, İbn Haldun University in Turkey, and Zaytuna College in the US.”

The Shaykh makes a very spiritually heart-disclosing approach to environmentalism in his discussion in Chapter Ten (“Creation Spirituality”). Worshipping the Almighty God is not restricted to human creations but expands to non-human creations as they make *tasbīḥ* to the Supreme Being. We cannot comprehend everything we see strictly to what the current laws of physics, chemistry, and biology tell us. On this matter, the reviewer especially touches the story of Moses and Khidr from Sūrat al-Kahf, where the reader is invited to ponder, “The smashing of the poor fisherman’s boat was revealed to be moral and wise once the context is fully disclosed.” The contents discuss various approaches to nature. Although it depends more on a philosophical perspective, it does contain references to the Qur’ān and *aḥādīth* as well.

In his critique on the excesses of modern capitalism under Chapter Eleven (“Zakat in the Postmodern Economy”), the Shaykh is very optimistic about the *zakāb* (almsgiving) institution in Islam. Considering the amount which could be raised from Britain’s Muslim millionaires, the Shaykh jolted. He quotes that according to the Muslim Council of Britain, there are more than ten thousand of them. This would represent two hundred and fifty million pounds a year for charity purely in *zakāb* terms. The shaykh further narrates many other stimulating statistics. To the skeptic, the Shaykh emphasizes not only the principles of inheritance but, more importantly, the principle of *zakāt al-rikāz*, where for minerals such as oil in the Middle Eastern

countries, the allocated tax is not at the rate of 2.5 percent, but rather 20 percent.

A single deep breath seems insufficient to supply oneself with enough knowledge and time to capture even the more minor key points in the book. However, below are my two cents.

Firstly, in his attempt to find a balance between secular scientism on the one hand and radical Islamism on the other, the most remarkable point of the heated ring, as described in his book, is probably Muslim European centered, if not British only. Hence, it should be noted that in some countries, the pendulum may swing further away from the secular scientism extreme compared to the reality in Europe.

Secondly, on being fearful towards God Almighty only and responding to evil with love. Is the latter only applicable to those with different spirituality and living standards? Those whose food on the table are neglected, with no medicinal supply and bank balance, might need a different kind of training, at least for their stop-gap relief to walk on a tightrope. Is it an act of chivalry for them to be non-responsively quiet instead?

The book may prove to be daunting among rookies. Even I had to follow Shaykh Abdal Hakim Murad's YouTube discussion on the subject together with Yusuf Ali's book recension to get a glimpse of *Travelling Home*. However, the use of simple language is not sufficient to be able to explain the obscurities in this book, and a profound user of the English language, alongside their English eloquence, may be able to place his mystical and theological ideas on the table appropriately. Therefore, the book deserves a better review, as a single review such as this can only scratch its surface, and more effort should be required in other reviews to shine the diamond further.

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The Study Quran: A New Translation and Commentary

edited by Seyyed Hossein Nasr, Caner K. Dagli, Maria Massi Dakake, and Joseph E. Lombard (New York: HarperOne, 2015), 2048 pp., ISBN 978-0-06-112587-4 (paperback, \$41.06; E-book as PDF or ePub, \$22.41)

The *Study Quran* (SQ) is a painstaking endeavor that takes several years before it is completed. This study consists of an introduction, Qurʾān translation, a synopsis of certain commentaries, and essays explaining the sacred text's place and thought in Islam. Recently, the topics that are discussed include "How to Read the Qurʾān" and "Islamic Views on the Qurʾān" to "Al-Qurʾān Ethics, Human Rights, and Society," as well as "The Qurʾān and Sufism" and "Commentary on the Qurʾān." This essay involves introductions and maps that exceed 2,000 pages to reconstruct the Battle of Badr and the Conquest of Makkah. However, the editors' preference and approach to translating the Islamic text, inclusion of commentary, and a map of each of these elements were selected to understand the Qurʾān properly.

This study focuses on how the commentary tradition is represented and modified on gender issues. Regarding gender, SQ is an excellent example of modern conservative methods and perspectives. Data were collected by picking and selecting, summarizing, and modifying pre-modern commentaries and prioritizing information written during and after the fourteenth century. However, using the commentaries only provides antiquity to a modern interpretation. This essay failed to perfectly represent medieval heritage because it sometimes diverged from the archaic comments (p. xliv). The discussion below shows the selection and

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preference that represent a distinctive expression of modern Muslim conservatism. The first is selecting sources to construct the “Islamic tradition.”

A total of 40 commentators representing a broad period and several views on the text were selected as participants. However, the respondents are somewhat misleading because the listed and early modern authors were not referenced in their comments but only appeared at the end of the essay or the introductory aspect.

For instance, al-Ṭabāṭabāʾī (d. 1981) and Ibn Āshūr (d. 1973) only appear in the introductory part of the book. Also, Shihāb al-Dīn al-Ālūsī (d. 1854) quoted Sūrat al-Nūr verse 31, Sūrat al-Aḥzāb verse 56, Sūrat al-Dhāriyāt verse 56, and Sūrat al-Mujādilah verse 22 in the commentary aspect. Al-Shawkānī (d. 1839) quoted the Sūrat al-Ḍuḥā verse 1-2, while the Shādhilī Sufi Ibn ʿAjībah Aḥmad (d. 1809) shared 46 comments. Furthermore, al-Burūsawī (d. 1725) interpreted Sūrat Qāf verse 43, while Muḥammad Muḥsin al-Fayḍ al-Kāshānī (d. 1680) appeared only in the introductory aspect. Ṣadr al-Dīn al-Shīrāzī, known as Mullā Ṣadrā (d. 1640), interpreted nine verses, and al-Suyūṭī (d. 1505) shared two verses in the commentary aspect. Al-Biqāʿī (d. 1480) quoted in the introductory and concluding aspects. Meanwhile, ʿAbd al-Razzāq al-Kāshānī (d. 1336) interpreted nine verses, while Ibn Kathīr (d. 1373) appeared many times in all aspects.

Briefly, authors who died during and after the twentieth century are omitted from the commentary aspect, but the earlier ones have the most citations. Also, authors except for Ibn ʿAjībah, who appeared from the 14th to the 19th centuries, are rarely cited in the book. These basic statistics give an excellent idea of the meaning of “Islamic tradition.” Meanwhile, the commentators prefer to represent the intellectual output of Muslim scholars during and after the fourteenth century because they fully admit to making a tough preference. This indicates that commentators have a deeper insight into the Qurʾān than current scholars. However, it is more important to present the readers’ views in the 14th century than in the modern period. In actual interpretation, these opinions become clear that editors feel uncomfortable with the idea presented in the 10th to 14th centuries. Therefore, these views are modified in ways that suit certain sensibilities about what it means to be a modern conservative

Muslim. In the traditional aspect, this Qurʾān interpretation is entirely new because it is a common pattern in terms of gender.

SQ's interpretation of Sūrat al-Nisā' verse 1 provides a good example of a modern conservative approach. The verse reads: "*O mankind, fear your Lord who created you from one soul and its mate that are dispersed as men and women.*" Meanwhile, *ittaqu* does not mean "fear" but "respect" when translated modernly. This leads to eliminating all the negative connotations that the term fear brings in a new context.

This interpretation combines medieval understanding with a modern conservative sensibility. In the ancient sources, the "one soul" and the "mate" are referred to as Adam and Eve respectively. Meanwhile, the modern line is added that "this interweaving of masculine and feminine references shows the reciprocity in human relations and marriages which is implied in other verses including Sūrat al-Baqarah verse 187 and Sūrat al-Rūm verse 21" (p. 189). The notion of "reciprocity" is absent in medieval source because this verse creates a hierarchy. Therefore, hierarchical elements are missing in SQ comments.

According to Maria Massi Dakake, this verse refers to the creation of Eve from Adam's rib. Meanwhile, other commentators interpreted that the creation of Adam and Eve is from the same substance known as clay. Several linguists interpret the verse "*min nafsⁱⁿ waḥidah*" to mean "of the same kind or character" (p. 189) because it becomes the representation of the medieval sources. Most ancient interpreters explained that Eve is a secondary creation due to her being formed from Adam. All the medieval commentators failed to indicate that Eve was the same as Adam. Hūd ibn Muḥakkam cited a ḥadīth that compares Eve to a man with a crooked rib: "a crooked woman abides with him." This interpretation showed that the creation of women from the same substance has nothing to do with gender equality. The medieval sources did not comment or indicate that Eve was additionally formed. Dakake interpretation of Sūrat al-Nisā' verse 1 established the understanding of man and woman as equal beings in creation.

The pattern of discarding unpleasant interpretations is repeated in Sūrat al-Nisā' verse 34, which reads, "*Men or husband are in charge of women or wife through the wealth that was given by Allah.*"

Therefore, righteous women are devoutly obedient but you need to advise those full of arrogance. The husband needs to forsake the wife in bed and strike them lightly if the arrogance persists. However, the man has to seek no means against women if they are an obedient type.” Dakake’s comments are extensive in this verse because he tries to summarize past interpretations and construct new opinions. This study provides a brief example of how the modern conservative paradigm of selectivity and reinterpretation is applied. Dakake agrees with the hierarchy between the genders set out in the opening verse 34 of Sūrat al-Nisā’, which reads, “*Men are in charge of women...*”. This is in line with the comments of al-Ṭabarī, al-Qurṭubī, Ibn Kathīr, al-Tabrisī, al-Zamakhsharī, and others.

Meanwhile, Dakake refers to the husband’s obligation to support the wife financially, while medieval commentators allow a man to discipline his woman. In this verse, the interesting part is not the general approach of picking and selecting but the object being picked and selected. Regarding gender, the editor’s preference usually represents a modern conservative perspective that Sunnīs and Shi‘īs share.

This approach is inevitable because the work edited by many people is uneven. Dakake’s interpretation of Sūrat al-Nisā’ verse 1 cited Sūrat al-Baqarah verse 187 as an example of reciprocity in husband-wife relationships, which reads, “*They are clothing for you, and you are clothing for them.*” Meanwhile, Caner Dagli failed to mention this verse because it is less important to medieval commentators than the modern ones. This scholar relies on al-Qurṭubī and Ibn Kathīr, who are interested in *asbāb al-nuzūl* and the period when intercourse is permissible during Ramadan (p. 82).

Dagli’s comment on Sūrat al-Tawbah verse 71 only referred to contemporary understandings of this verse which reads as: “*The believing men and women are allies of one another because they enjoin what is right and forbid wrong act by establishing prayer and giving zakāb as well as obey Allah and His Messenger. This enables Allah to have mercy upon them.*” Dagli’s comment on Sūrat al-Aḥzāb verse 35 cited, “This verse is important because it places the same spiritual and social obligations including moral authority and protection on the shoulders of men and women” (p. 525). In this

verse, the interpretation reflects modern sensibilities and concerns with human equality between the genders.

The Study Quran as A New Translation and Commentary becomes a monumental work that requires a strong scientific effort to explore. This work is not clearly understood as a representation of medieval interpretive and modern thought but instead serves as a good example of the current conservative trend. A new perspective tends not to be indicated because the book is not an academic work that contains a clear statement about a particular worldview. For instance, the gender issue demonstrates how modern conservative thinkers used parts of medieval tradition as a springboard to fully build a new view where male privilege was guaranteed but not based on the idea of men's innate superiority.

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Sufismus und Theologie - Grenze und Grenzüberschreitung in der islamischen Glaubensdeutung by Reza Hajatpour (München: Verlag Karl Alber, 2017) 165 pp., ISBN 10: 3495488774 / ISBN 13: 9783495488775 (hardback, £62.00; E-book as PDF or ePub, £32.91).

Mysticism is a religious phenomenon open to different interpretations, and it receives varying expectations from its followers, which corresponds to the nature of the religion. All religions act with the schools of thought and doctrines within the same religion. In his book *Sufismus und Theologie - Grenze und Grenzüberschreitung in der islamischen Glaubensdeutung*, Reza Hajatpour addresses the most important aspects of mystical theology. The investigation is primarily intended to analyze the approaches of teachings and understandings from the offer of Sufi beliefs and the associated controversy, which compared to the apologetic and dogmatic interpretation of the beliefs and also characterizes the limit and transgression of an Islamic-mystical theology.

Reza Hajatpour's work comprises an introduction, twelve chapters, and a final remark. In this study, I will categorize the chapters into various parts: The first sections will develop definitions of the conceptual bases of Sufism, such as mysticism, *taṣawwuf*, and *ʿirfān*, and will furthermore discuss the possibility of Islamic mysticism or its foreign-determinism. Later, we will discover topics and debates about asceticism, music, love, and beauty. The last part will be about remarks, critics, and offerings about the book's content for possible new approaches.

Firstly, the author mentions *taṣawwuf* and mysticism and explains that *taṣawwuf* is translated as Islamic mysticism. Although there are

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This work is licensed under *Creative Commons Attribution-NonCommercial-NoDerivatives 4.0 International*.

certain similarities in terms of content between these two terms, there is no semantic equivalence between them. Hajatpour brings various pieces of evidence from ancient scholars such as al-Bīrūnī, al-Qushayrī, al-Suhrawardī, Abū Naṣr al-Sarrāj, and Ibn Khaldūn, and their explanations about the original form and usage of *taṣawwuf*, like the clothing, wool, philosophy, pre-Islamic indicator. The writer believes that the term *taṣawwuf*/*ṣūfī* was not identified in the time of the Prophet. However, over time it became more prominent, and *ṣūfīs* stood up from other Muslim communities in terms of their ascetic lifestyle. He says *taṣawwuf* is not a science but a teaching of inner transformation and experience and is multi-dimensional. Mysticism is derived from Greek and can be translated as secret knowledge. The author shares the opinion that mysticism is the art of recognizing things to discover the hidden meaning; so, there is no logic of the mind, but it furthermore requires silence as an opening to see or hear the inside. About the terminological debate, Hajatpour clarifies *ʿirfān* as cognition/insight, which means God-knowledge and attaining redemption of the man. There are different ways of cognition, such as of the philosophers who prefer logic, mind, and analysis and of the gnostics who prefer to leave all this. The author indicates that *ʿirfān* aims to reveal the truth and is a practical way of a spiritual experience of the truth and a higher level. On the other hand, *taṣawwuf* has a defined shape and ritual enriched with a guide. Whether Sufism is foreign-determined or takes its root in Islam is not grounded in historical sources, and there is no exact information on the emergence of Sufism. Influencing factors such as Christian priests, Hinduistic and Stoic thoughts, or Persian philosophy are all important facts that shaped and interacted with Sufism. Hejatpour provides references from various sources like *Tārīkh al-falsafah al-ʿArabiyyah* (al-Fākhūrī), *The Mystic of Islam: An Introduction to Sufism* (Reynold A. Nicholson), *Nafaḥāt al-uns* (ʿAbd al-Raḥmān al-Jāmī), *Mystische Dimensionen* (Annemarie Schimmel), *Zur Frage Nach der Herkunft und den Anfängen des Sufitums* (Richard Hartmann). Hajatpour remarks that there was a spiritual development during the emergency of Islam, and it gained a new character that encountered other cultures over time.

After the debates about the framework of Sufism, the book refers to particular discussion contents belonging to the history of

mysticism. Hajatpour addresses *sharīʿah*, *ṭarīqah* (path to God), and *ḥaqīqah* (reality) as the mystic's triple path to God. All of them depend on each other, and the first and second paths are two steps of piety that lead to truth. The first path will be achieved through performing practical worship, and the second is a level where one has to attain practical experience. He shares the opinion that the introduction of the three terms into *taṣawwuf* was, on the one hand, an attempt to harmonize Sufism with theology and, on the other hand, to question the reduction of faith to external and speculative reasoning by traditional theology. Hajatpour maintains that all these ascetic processes appear through two aspects as states (*aḥwāl*) and stations (*maqāmāt*) and share the traditional acceptance of *maqāmāt* and *aḥwāl*. Furthermore, he differentiates *sharīʿah* and *ṭarīqah* with the concept of will (*irādah*). A *ṭarīqah* is a voluntary act where the believer achieves different *aḥwāl* and *maqāmāt* in his mystical path.

Last but not least, the author picks out diverse themes with controversies, such as mysticism and asceticism, love, perfection, and music. First of all, Hajatpour believes that asceticism is not a contradiction to formal worship. Instead, it is an increase, an eternal remembrance of God, an extended interpretation of piety. The mystic does not deny the world, but he gets rid of the dependency on the world. Holding on this basis, the writer takes position to other topics of his book. Music has been a debate in Islamic tradition since the first centuries, and there is a general admission that music is unwelcome and should be avoided. However, in Sufism, music and some are fundamental phenomena that cannot be denied. After mentioning the legitimacy problem of music, Hajatpour summarizes that the same is an essential component of Sufism which is a collective experience whose rules are not to be neglected. He points out that not appearance should be judged but rather intention.

Depending on this, Hajatpour clarifies in the following two topics the relationship between mysticism and love and beauty. The mystical teaching is connected with love and beauty and results in transcendental aesthetics. Everything in the world exists with the existence of God; so, therefore, the world embodies only the beautiful. Hajatpour relates his point of view with God's mercy and grace. This leads him to the idea of unity, endlessness, and the abolition of duality. Furthermore, he explains that the idea of unity

(*tawḥīd*), which is an existential experience, takes place through love. The human being is stimulated and God is attracted through love and it arises personal unity and freedom. Hajatpour remarks that human doesn't want a limited existence and strives for endless selflessness through an unlimited existence.

The criticism of the book can be dealt with in several contents. First of all, it is remarkable that Hajatpour attributes his arguments to reliable sources. In all chapters, we can find ancient and respectable scholars such as Abū Naṣr al-Sarrāj, 'Alī al-Hujwīrī, al-Qushayrī, al-Ghazālī, and Ibn Khaldūn. They are not only from the same region and same school, rather he selected scholars from East and West, belonging to Sunnī and Shī'ī beliefs. Besides the primary sources, the book is enriched with recent researchers' works. The salient is that the book offers viewpoints from scholars affected and shaped by the dominant paradigm, which we can find in traditional historical Sufi research.

Hajatpour believes that the idea of perfection (*kamāl*) is older than Islam and, therefore, should be analyzed in historical continuity. He continues that the Qur'ān does not mention that human beings are not destined for perfection. Hence, one may assume there is a contradiction between the mystical thought of perfection and conventional theology. Everything except God is imperfect, so how can man acquire perfection? Furthermore, if anyone acquires perfection, then the thought of obedience would be removed. Another discussion about perfection affects the human being in terms of ontological and epistemological dimensions. The author clarifies this problem by saying that acquiring perfection does not exclude fulfilling religious duties. After all, the approaches and arguments that Hajatpour proposes as a solution to this problem seem one-sided. The thought of perfection can be discovered in a possible and requirable kind of position. Firstly, he could strengthen the thought of perfection with various narratives of the Prophet Muḥammad. Naturally, perfection is connected with humanity; therefore, it had been discussed before Islam. Secondly, perfection is not only to protect and maintain obedience or to worship but also to stand clear from sins, dishonest behavior, and immorality. Being active is not only about running over perfection and trying to get it through at a high level and under hard conditions.

Another criticism is about the last chapter, which approaches the idea of oneness of being (*waḥdat al-wujūd*). Hajatpour indicates that this is a single truth and being that is the reason for the whole existence. This explanation affects debates about the possibility of the unity of God and his creation, especially God's existence, attributes, and deeds and how they are united with the world. With etymological interpretations addressing the difference between divine existence and the existence of the creation and handling the unity of existentialization, Hajatpour offers the disputation about *waḥdat al-wujūd*. However, we can remark that he does not mention the most important defenders of *waḥdat al-wujūd* in Sufi research. Because of the complexity of this topic, it would be more beneficial to develop the idea of unity with references to the great Sufi Ṣadr al-Dīn al-Qūnawī and referring to him. Al-Qūnawī is the most important representative of the idea of *waḥdat al-wujūd*. It has been claimed that the term *waḥdat al-wujūd* was used for the first time by al-Qūnawī, but other sources referred to other names. Indeed al-Qūnawī mentioned two places in his texts, but these are not suitable to be interpreted in the sense of existence. Instead, they should be understood as literal meanings. Nevertheless, al-Qūnawī is one of the most famous followers and commentators of Ibn al-ʿArabī, who had significant influences on the history of Sufism and Islamic thought. Al-Qūnawī started to systematize the thought of existence and conveyed the deep knowledge and accumulation of Ibn al-ʿArabī.

Consequently, we can say that the book focuses on various issues which are discussed in Sufism research. The work has a kind of simplicity and is reader-friendly in terms of the categorization of the topics. Nevertheless, the themes require knowledge and background information and should be interpreted by academic readers. All perspectives, questions, and debates addressed in the book are important to comprehend, and scholars in the field of Sufism and philosophy can benefit from the work.

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