



Application of Maqasid Al-Shariah in the Face of Contemporary Challenges.

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Abstract

Islam as a religion is under investigation by western academia. Teaching of Muhammad (pbuh) is scrutinized after 9/11 attack in United State. Maqasid Al-Shariah was not on focus in western academia. However, in contemporary time we can notice the focus on Maqasid Al-shariah among Muslim academics to introduce and break the misconception about Islamic jurisprudence. Islamic rulings are portrayed as backdated and it cannot fit with modern law. This article will discuss medieval Muslim scholar Abu Ishaq al-Shatibi's work on Maqasid Al-Shariah. Then, it will discuss about Allama Iqbal view on Islamic rulings. Moreover, this article will look into Syrian philosopher Muhammad Shahrur's ideas on Maqasid al Shariah. This paper uses qualitative methodology. Content analysis was done to understand application of Maqasid al Shariah in the face of contemporary challenges. This research finds that Maqasid Al-Shariah can be flexible, suitable for all of humanity to save our planet and Islamic Jurisprudence can be adapted in any given place and time period so long Human beings live on this earth.

Keywords: Maqasid Al-Sharia, Shatibi, Islamic Laws, Doubt Canon, Abu Ishaq al-Shatibi, Muhammad Shahrur.

1. Introduction

Islamic Jurisprudence (Fiqh) is important for Islamic laws (Shariyah). Islamic Jurisprudence mainly deals with the philosophy of Islamic laws. Maqasid Al-Shariah is one of the most controversial topics to discuss in contemporary world. In the past, it was not concerned for the west, however, after 9/11. Islam came as red-spot in western world. Intisar Abdur Rabb (2015) wrote a book on Islamic Laws. She deals with doubt in Islamic laws and surprisingly she tried to relate with American civil law towards the end of her book. The point is that she wrote the book to remove the misconception of the western academics to show that Islamic law is dynamic.

This paper is dealing with more serious concern in contemporary Muslim community. Hasan and Ali(2021) quoted how Muslims are leaving Islam in America just because science vs religion debate. What kind of books do they read when they get confused about Islam? They tend to read Muhammad Shahrur, Fazlur Rahman, Irshad Manji and so on.

The problem of Ijtihad , Muslims scholars are facing today. In the past, only experts could interpret religious texts, however, now regardless of background , many scholars started to interpret Quran. Islamic Law is one significant branch in which this problem is visible. Shahrur dealt with Islamic law using his interpretation negating hadith as well as writings of all Muslim scholars.

As an expert Engineer and lecturer in 20th century, Muhammad Shahrur perhaps was able to grapple the problem of young generation. Therefore, he also hanged his methodology like Fazlur Rahman to interpret Quran using new rational method. Muslims are facing so many challenges in contemporary time and there is no doubt on that. Sulayman, former rector of International Islamic University of Malaysia, (2009) wrote the major concerns that Muslims are facing in contemporary time in general. If we study post-holocaust theology, we came to learn that 'the problem of evil' does bother in contemporary academia of Jews scholars as well . We dream about divine justice by divine laws.

Quite complex enough to think from both sides which interpretation is correct? On one side we see Islamic antisemitism comparing Muslims with Nazis. On the other hand, Jews in Israel are like neo-Nazism against local innocent Palestinians. As we read Anna Frank Diary, we become sympathizer and wished for just world but if we look atrocities with Palestinians Kids, then question would always be raised which Anna Frank should we defend? From Muslim side or Jews side, all are kids and innocent. The problem of evil remains no matter how much time we spend debating. Surprisingly both parties justified their stance using religious Texts. The dilemma remains in between which interpretation is to accept as accurate and truth. For Muslims, they think can Islamic laws make sure justice?

Jews came to Palestine and it was just 6 days war and Muslims lost. Shahrur was one of scholars who got shocked and influenced from this event. The students were asking questions to this Professor in Syria how to rationally defend Islam in the face of western challenge. Shahrur (2009, p.538) stated in interview, “One day, a student came up to me and said ‘If you believe that it [i.e., the Qur"an] is from God, how will I ever be able to argue [rationally] with you.’” No doubt Shahrur has secularized Islam and alienated Quranic Interpretation from its traditional approach. This has some impact in contemporary Islamic literature perhaps because if we read Ziauddin Sarder’s contemporary writing like Islamization to Integration, we can see how reform takes place in education(Sardar, 2018). We know that Shahrur and Ziauddin Sarder both are not from Islamic background like Qardawi, Shatibi, but they are writing as if they are scholars on this field. They may have good intention but their writings create confusions among young Muslims. In this paper, we can see how Shahrur interpretation on Islamic rulings are dubious and dangerous for young Muslim readers.

This paper firstly will introduce Islamic Laws. Then, it will discuss related significance of reformation referring Yusuf Al Qardawi , Shatibi, Muhammad Iqbal, Muhammad Shahrur. This research uses qualitative method. Content analysis has been done for this. This paper finds that Islamic rulings are dynamic , but it can be misinterpreted if it not interpreted by expert scholars.

2. Exploration

a) Background Study for Islamic Laws

Higher Objectives of Islamic Laws are to protect religion, lives, intellects, properties and progeny(Yasir S. Ibrahim ,2014). From the time of prophet Muhammad(pbuh) , we have noticed how Islamic laws are practiced. Imam Gazali discussed these 5 higher objectives. Then, Shatibi explained in details related these higher Objectives of Islamic Law. Then, we see reformation approach started in modern period like Jamal Al-Din Afgani(1938-1897), Muhammad Abduh (1849-1905).

Then, we see debate among Muslim scholars on how to achieve these Higher Objectives of Islamic Laws. There are few types of interpretations we can notice. For example, 1. Literalists (e.g. Neo-Zahirist) 2. Moderate (Like Shatibi (d. 1388 CE) in medieval period and Abduh, Rashid Rida , Yusuf Al Qardawi in Modern period) 3. Muslim Secularists (It has two sub category as we have noticed 1. Secular with ambiguity like Muhammad Iqbal approach of Islamic law not giving any clear method) 2. Secular with clarity (like Shahrur).

b) Significance of Reformation

Muhammad Abduh called for reformation based on modern challenge that Muslims are facing. He disapproved some, not all, pre-modern scholastic works since these works do not suit with contemporary problems that Muslim societies are facing. Muhammad Iqbal also noticed the problem of secularization within Muslim societies. Hence, they call for reformation and revision for pre-modern approach of Muslim scholar’s works. In legal philosophy, ethics and theology , they urge for re-evaluation.

c) Shatibi and Abduh: Challenging Conservative view

For Abduh, he found that Shatibi’s legal philosophy can challenge traditionalists/conservatives (Yasir S. Ibrahim,2014). Pre-modern interpretation can be challenged and Muhammad Abduh challenged conservative thinking by his thought of the higher objectives of Maqasid Al-Shariah. This is striking point to note. For the reformation it is necessary to focus on higher objectives of Islamic Law. In fact, Abduh is not only one who referred Shatibi, rather there were several Muslim scholars who referred Shatibi in their scholastic works. For example, Muhammad Rashid Rida, Tunisian religious scholar Muhammad al-Tahir Ibn Ashur , Moroccan scholar Muhammad ‘Allal al-Fasi also referred in his famous book ‘*The Higher Objectives of Islamic Law and Its Virtues*’ .

d) Goal: Higher Objectives

Classical Legal theorists like Imam Ghazali, Shatibi discussed about Maqasid Al-Sharia(Yasir S. Ibrahim,2014). They set few Higher goal of objectives. For example, 1. Preserve religion 2. Preserve Lives 3. Preserve intellects 4. Preserve Properties 5. Preserve progeny.

Under these higher objectives there are so many lower objectives, but that’s how they refer these 5 higher goal for Islamic law to be implemented in society.

e) Shatibi’s Explanation on Maqasid

For Shatibi, Islamic rulings mentioned in Quran and Sunnah must have certain objectives intended by Lawgiver.

There are 4 types for Islamic rulings for Shatibi. Namely, 1. Worship rituals 2. Customary practices 3. Interpersonal relationships and transactions 4. Criminal punishments.

There are 3 general Maqasid for Shatibi.

1. Necessary, 2. the needed 3. the enhancing

The necessary maqasid are strictly divided into five components as mentioned earlier as well: the preservation of

1. religion 2. Life 3. Progeny 4. property 5. intellect.

For Shatibi, if we want to avoid anarchy in society and offer peace and harmony within Muslim society, these 5 necessary Maqasid must be formulated. Lack of one necessary maqasid can cause trouble in society.

f) Probable vs definitive rulings in modern context

Shatibi’s the principles of Islamic legal theory (usul al-fiqh) are “definitive” or “certain”. Shatibi mentions,

Fiqh in the religion (of Islam) are definitive; they are not probable. The evidence for this (statement) is that: 1) these principles are based upon the universal principles of the shariah; and 2) whatever has this form is definitive. The explanation of the first is evident through induction that leads to definitive truths. 2 The elaboration of the second is undertaken from different perspectives: The first explanation is that they are either based on rational proofs, 4 which are definitive, or they are based upon general induction5 from the evidences of the shariah, which leads to definitive conclusions as well. There is no third

possibility, 6 except for a combination of the two possibilities, and a combination of definitive state (Mūsá Shāṭībī Ibrāhīm ibn, Nyazee Imran Ahsan Khan, and Raji M. Rammuny ,2012).

However, in modern context Muslim scholars differs from this view. For example, saving lives are given prioritization in Shahrur works over religion. In other words, Shahrur proposed secular view to interpret Islamic rulings.

g) Yusuf al-Qaradawi and Secularism

Yusuf al-Qaradawī is not happy with premodern necessary maqasid. In the preservation of intellect , for Qardawi, scholars in the past did not include issues like building scientific mentality and rejection of blind imitation. In contemporary time , we are very much concerned on these issues. Regardless of branches of knowledge, we focus on scientific investigation by rejecting blind imitation. The education system in universities have been formulated in that way. Instead of memorization, we encourage critical thinking by reading the text and formulate new ideas. For Qardawi, these had lacking in preservation of intellect among early Maqasid scholars.

h) The Problem of Redefinition

This is the major problems that Muslim scholars are facing in 21st century Ibrahim mentions :

Qaradawī's critique presents this premodern system as being non-Qur'anic, and, according to his methodology, the necessary maqasid should be determined based on what the sacred texts present as necessary to build a righteous Muslim community. However, such an interpretive move would render Shatibi's system irrelevant, since the redefinition of the necessary maqasid would also require a redefinition of the needed and enhancing maqasid(Yasir S. Ibrahim,2014).

This problem of redefinition makes the contemporary Muslim scholars trouble. Qardawi perhaps wanted something to reconcile following original texts like Quran and Sunnah, but the problem seems more complicated than that.

i) Qardawi in achieving political justice in Islamic law

Here Qardawi faced another challenge. He emphasized the discussion among Muslim jurists an scholars in contemporary time for common Islamic rulings , but he found difficult to deal with literalists (Neo-zahiri) who would not take into consideration this new approach.

Ibrahim stated:

Following 'Abduh and Rida, Qaradawī refers to Qur'an 42:38, in which Muslims are commanded to enter into consultation (shura) among themselves to manage their affairs. Based on this verse and a few others, Qaradawī explains that there has been a traditional consensus among Muslim jurists that political authorities should consult with people of knowledge and expertise on all matters relating to public policy and the common good. But he raises the question of how to enter into this kind of consultation in contemporary Muslim-majority societies in light of the objective of promoting political and social justice. He finds the legal opinions of the modern "neo-Zahiri" jurists on this issue to lack a focus on achieving this general objective(Yasir S. Ibrahim,2014).

j) Iqbal on implementing Hudud Law in contemporary context

Hillier wrote an article on *Muhammad Iqbal on al-fiqh: towards a natural law jurisprudence*. He highlighted few contemporary concerns related Islamic Law. It is necessary to deal Iqbal before we proceed to Shahrur Critique.

For Iqbal, unlike Shahrur, he is indirectly saying Hudud Law can be differ based on different context of society. Hellier (2010) stated :

Regarding those of legal relevance, the question at hand is which hadith are imports from pre-Islamic Arabic traditions and which are innovations by Muhammad himself; something that one cannot fully discover. Borrowing from Shah Wali Allah, Iqbal theologially solves this problem by asserting that a prophet's laws consider the "habits, ways, and peculiarities of the people to whom he is specifically sent," as the best methodology is to train a particular people as a nucleus for establishing a "universal Shariah."¹⁰ What is important for this paper is that, like his understanding of the Quran, Iqbal affirms that beneath the particular applications of law in this society are universal principles (ahkam) for application elsewhere. Importantly, Iqbal argues that the particular application of these universal principles (e.g. criminal laws), however, are specific to the original community and "cannot be strictly enforced in the case of future generations."

Now Hellier further his argument by saying Iqbal did not mention modern natural law theory but his address goes more towards natural law theory, "Moreover, it is evident that there are several parallels between the expression of natural law theory in European and Islamic thought. While Iqbal never mentions the term "natural law" in *The Reconstruction*, he does present doctrines that are fundamental to natural law theory and advocates particular interpretations of Islamic law that appear to share ideas with modern natural rights theory"(Hellier,2010).

The question is what is natural law theory? The answer is laws made by human reasoning and that is mostly secular law that is made for the human benefits by modern secular experts lawmakers.

Now Hellier (2010, p.270) points out that Iqbal emphasized on Ijtihad for the reformation:

Iqbal contends that the failure to recognize eternal principles in politics and science is Europe's mistake, while the failure to admit change has been Islam's error over the past 500 years.⁷⁵ The principle of change within Islamic thought and law is ijthad, and now only the freedom of ijthad can "rebuild the law of Shari'a in light of modern thought and experience" while becoming a power for social reform.⁷⁶ He contends that ijthad can aid Islam in its rediscovery its original verities of freedom, equality and solitary with a view to rebuild our moral, social and political ideals out of their original simplicity and universality."

Moreover, Hellier also stated that Iqbal consider evolution of changes not only in biology also in society. Thus, Islamic laws can be evolved for the betterment of society,

" "The Spirit of Muslim Culture" and "The Structure of Islam," Iqbal advocates an evolutionary process of human history, not only biological but intellectual and moral also. From its primal state that is "primarily governed by passion and instinct," human society evolves through inductive intellect and intuition to higher existence. This evolution is a "process of change" is a creative movement towards a particular destiny, but one that is not "already determined." This is a rejection of the finite and immutable, as promoted in Greek thought, in favor of change." (Hellier ,2010,p.277)

Hellier ends the article by saying Iqbal is following WhiteHead's natural law theory, "we can represent Iqbal's natural law theory as representing a Whiteheadian interpretation of the Islamic soft

natural law theory. The direction of all reason, revelation and law is God the Beautiful, and in case where revelation is silent on a particular issue, our reasoned jurisprudence needs to be in line with the ultimate teleology of the universe and the goods of society.” (Hellier,2010,p.283)

We can see that Iqbal was rather abstract to explain his thoughts. Next section will look into Shahrur.

k) Who is Muhammad Shahrur?

Muhammad Shahrur studied in civil engineering; and he worked in University of Damasq as a lecturer for decades. He was born before world war 2 in 1998 and he died just before Covid pandemic in 2019. He studied in Russia in Civil Engineering. He wrote so many books on Islam and his first Arabic book(*The Book and The Qur'an: A Contemporary Reading*) is the most controversial one. In 2009, he published one English book (*The Qur'an, Morality and Critical Reason - The Essential Muhammad Shahrur*) which is famous among western intellectuals. He died in Qatar but he was buried in his homeland Syria.

l) Methodology of Muhammad Shahrur

Shahrur first uses structuralism and mostly followed the approach of Saussure (Saussure,2011). Though Shahrur never uses famous two terms (Signifier and signified), but we can notice the pattern if we do textual analysis of his English book. He developed his own method in fact. He was post-modernist in a sense to interpret Quran. He rejected all the traditional approaches in order to develop his new methodology. His approach is you read the plain text of Islam and interpret the Quran based on rational and scientific contemporary approach. His approach as mentioned in introduction of his book, 'READ THE QUR"AN AS IF IT WAS REVEALED LAST NIGHT' .

m) Brief Summary about his English Work (*The Qur'an, Morality and Critical Reason - The Essential Muhammad Shahrur.*)

Muhammad Shahrur's only English book is *The Qur'an, Morality and Critical Reason - The Essential Muhammad Shahrur*. It consists of 588 pages. In this work, Shahrur basically provided the summary of his earlier Arabic works for international readers. It was published in 2009 and Shahrur himself wrote introduction for this book during his lifetime. Readers can notice(from page vii till xvii) the team works for the translator teams in the foreword, acknowledgment and introduction by translators. Shahrur gave titles for 6 chapters excluding conclusion. Each chapter deals with different topic. For example, e.g , chapter 1 he defines two terms *Al-Islam* and *Al-iman* and then he develops his own sort of interpretation. In chapter 2 he discussed about the Sunnah of the prophet and he develops his unique interpretation that will shock the Muslim and non-Muslim readers for sure. I will discuss this interesting issue later in detail. Then, in chapter 3 he discussed about revelation; in chapter 4 he dealt with most controversial topic Hudud under the title of theory of limits. In chapter 5 he talked about women and Islamic law in which he uses mathematics for inheritance for women and other concerns related women. In the very last chapter(6), he devoted his writings to deal with contemporary the hot topic which is political Islam . Then, he summarizes his works in conclusion.

However, these chapters are inter-related. Towards the end of book, there are two interviews that were added for readers to summarize his thoughts. It really gives insights for the readers who are not familiar of Shahrur methodology of works.

n) Shahrur's Theory of Limits for Maqasid Al Sharia (Hudud Case):

Chapter 4 is another most important issue that Shahrur criticized heavily undermining all the traditional Muslim experts on Islamic Laws.

Shahrur first defines the term Hudud is limit and gave his especial theory of limits where he introduce two simple concepts 1. Upper Limits and 2. Lower Limits (Shahrur Muhammad, and Andreas Christmann,2009,).

In fact, He spent entire chapter by giving examples to relate with his theory of limits. He gave the example from science, "The minimum requirement for organic life is the existence of water (i.e., humidity) and oxygen. The minimum amount of subshells circling an atomic nucleus is one, and the maximum amount is seven. Hydrogen, for example, has only one subshell, while others have seven, such as radium. Therefore, the number of circling subshells always varies between one and seven. These examples are sufficient to demonstrate how nature and society function between upper and lower limits, adherence to which is vital for the preservation of life." (Shahrur Muhammad, and Andreas Christmann,2009, p. 179)

For theft case, hand amputation is maximum upper limit but if there is another better alternative, it can be avoided for Shahrur. He stated:

Islamic legislation tries to avoid punishments being indiscriminately enforced and instead considers mitigation as absolutely vital. In the case of theft, for example, the amputation of the thief's hand must be only regarded as the last resort if other forms of punishment have proved ineffective or if the type of theft was very serious. If, for instance, only a slice of bread has been stolen and if this was not done out of sheer menace but because of desperate hunger, to cut off a person's hand—as if he had stolen somebody's possessions out of greed and pure self-indulgence—is a violation of the flexible and moderate character of Islamic law. Yes, we accept that Muhammad (pbuh) had indeed ordered the amputation of the hands of thieves in Medina, but we should not forget that the second caliph Umar b. Khattab (r) ruled against the Prophet's example and pardoned a number of thieves. In doing this, the caliph certainly did not abolish the Hadd penalty for theft once and for all. What he did was to exercise his right to judge each case individually. (Shahrur Muhammad, and Andreas Christmann,2009, p. 189)

Also, there is no Hudud for private cases related homosexuality. Shahrur says , "Homosexual relationships in private are of no concern for Muslim legislators as long as they are based on consensual activities that avoid bestiality, debauchery, and orgylike excesses". (Shahrur Muhammad, and Andreas Christmann,2009, p. 206)

o) Shahrur on Women Rights (Completely against Shariyah)

Shahrur seemed to be very much concerned about feminist issues. He dealt with this topic vastly using his mathematical calculations when it comes to inheritance. He also talked about the rights of women to work in any field. Then, he deals with dress code of Muslim women by giving upper and lower limits. He accused Muslim Jurists for showing too much patriarchic rulings towards women by using Islamic rulings especially when it comes to dress code. Shahrur seemed ok for girls to wear Bikini in the seabeach and Headscarf is not compulsory. He stated for women dress code

as well as quoted Quranic verses as rewards for women those do-good deeds even they do not follow traditional dress code.

Dress requirements for women : There are four stipulations to be considered: a. Women are not allowed to appear completely naked except in front of their *zawj* husband—no other person is allowed to be present. b. Women are required to cover their lower private parts (absolute lower limit) in front of those persons mentioned in 24:31, but not their upper private parts. Their *bal* husband and half of their *maharim* (taboo-)relatives (note: not all of them!) belong to this group. c. Women are required to cover their upper private parts (breasts and armpits) in addition to their lower private parts, her thick awra (= this constitutes the lower limit for all women). This definition, however, does not cover dresses for special social occasions (parties, opera, concerts, etc.). As for the concept ‘from the navel to the knee’, we conclude that fiqh jurists unashamedly invented this. Headscarf: Women and men are not required to cover their head. If they do so they are merely following the local conventions of their place of origin. Finally, as the best counterargument against all those traditionalists who claim that women will never enter Paradise, we quote the following two verses: Whoever works righteousness, man or woman, and has faith, verily, to him will We give a new life, a life that is good and pure and We will bestow on such their reward according to the best of their actions. (Al-Nahl 16:97) And they shall hear the cry: “Behold! The garden before you! You have been made its inheritors, for your deeds (of righteousness).” (Al-Araf 7:43) (Shahrūr Muḥammad, and Andreas Christmann,2009, p. 326-327)

Therefore, we can say that by using new interpretation, Shahrur has framed Islamic laws under western secular laws.

p) Sharur on Rejection of Political Islam(As if Against Shatibi’s 5 Necessary Maqasid to implement in society)

Shatibi advocated Maqasid al-Shariah , especially 5 necessary maqasids for Islamic State, However, Shahrur completely negated the idea of Political Islam after the death of Prophet Muhammad (pbuh).

The very last chapter, Shahrur touched the most sensitive topic that is Political Islam. After 9/11, Muslims countries are facing this challenge. In this chapter , he deals with the term ‘Jihad’ just to redefine the term Jihad and he is against any kinds of violence. He even rejected the imperialism concept of Islamic empires like Ummayyad, Abbasid and Turkish Khilafa system. He even accused these people who misuse the term Jihad in order to get benefits from soldiers. Shahrur stated:

The period of the rightly guided caliphs was in fact a transition period between the era of the Prophet (pbuh) and the era of Arab imperialism (of the Umayyads and Abbasids). Everything that happened in that transition period was based on the political requirements of the day—the companions’ decisions were human, fallible, and contingent—with no real connection to the Messenger (pbuh). With the emergence of the epoch of imperial expansion, which started with the reign of Muawiya b. Abu Sufyan, rulers began to suppress the democratic right of people to participate in politics. As will be shown in this chapter, Jihad was transformed into conquest and military raids, while during the period of the Prophet (pbuh) it had meant a struggle in God’s way to secure freedom of choice for all people. (Shahrūr Muḥammad, and Andreas Christmann,2009, p. 336)

In addition, For Sharur Jihad is not holy war rather it is to establish words of God and where all people will have freedom of choice regardless of their faith(Shahrūr Muḥammad, and Andreas Christmann,2009, p.337). He also (p.338) advocated for democracy and confessed that Arab never enjoyed democracy rather they practice cultures and customs even before Muhammad (pbuh).

Shahrur also pointed that apostasy was only used for political agenda, “The notion that apostasy is forbidden and that apostates will be punished by death has often been used by political authorities and the religious establishment to suppress freedom of religion. For centuries the threat of the death penalty has been hanging over the heads of those who dare to question the fundamental doctrines of Islamic scholarship or who want to explore religions other than the one he or she was born into. This section shows that the death penalty is a fiction of Islamic fiqh concocted in order to discipline Muslim Believers and to punish political dissent.”(p.338)

Shahrur (p.393) argued in general Islam must be separated from politics and not from society. He heavily accused to use Islam in politics throughout history of Islam:

The political history of Islam reveals a frightening habit to use religion for the purpose of usurping political power. The list is indeed very long: Zubayrites, Harurites, Qarmatis, Umayyads, Abbasids, Mamluks, Ottomans, and so on, all used jihad as a pretext for their hunger for power. Another feature of this fatal alliance between religion and politics is that the jihad doctrine has been misused over centuries to justify an ever-growing expansion of the Islamic empire by declaring military conquests a ‘mission for the spread of Islam’ and by disguising conquests and invasions as ‘openings’ to the religion of Islam. Inevitably, Islam soon became known as the religion of the sword, of violence, terror, oppression, supremacy, hatred, and vengeance, and today’s terror in the name of Islam certainly does not help to eradicate this image of Islam as a martial religion.(p.395)

It is clear that Shahrur may feel like advocating Hudud by giving his upper and lower limits. However, in reality he is completely advocating Kantian ethics to implement law within pseudo Islamic framework and he is completely against traditional and moderate past and contemporary scholars. Muhammad Iqbal advocated natural laws theory but in abstract manner by emphasizing Ijtihad and we see the extreme version of outcome for Ijtihad with Muhammad Sharur that somehow portray Islamic Jurisprudence as complexly probable. Next section again explore Shatibi to address the contemporary concern.

q) Contemporary Challenge: Shahrur verses Shatibi

So far we have explored Shahrur and now we turn to Shatibi how he viewed when it is matter for Hudud in Islamic Criminal Law. He in fact observed the issue of Hudud in Islamic laws in complete opposite way than Shahrur. We can perhaps grasp from Shatibi’s writing. Shatibi wrote: it is knowledge established without any diminution – It is for this reason that we do not find abrogation to be operative on them (the principles) once they are established, nor is there any restriction of their generality, nor qualification in their absolute meaning, nor the lifting of one of their rules. No diminution is to be found in them either with respect to the subjects in general, with respect to particular subjects, with respect to time, or circumstance. In fact, what was established as a cause will remain a cause forever without repeal, what was established as a condition will forever remain a condition, what was established as

a wajib will forever remain a wajib, and what was established as a mandb̄b will remain a mandb̄b. Likewise, all other types of rules. There is no diminution in them, nor can these be altered. If the continued existence of duty to Allah (taklif) is presumed without ever ending, the same is to be said about the related rules. (Mūsā Shāṭibī Ibrāhīm ibn, Nyazee Imran Ahsan Khan, and Raji M. Rammuny ,2012, p.34)

Surprisingly, Shatibi also warned about scholars like Shahrur when he mentioned about seeking knowledge in his introduction. Shatibi stated:

The second are lapses arising from oversight from which human beings are not protected. The scholar, as a result of intervening oversight, no longer remains a scholar. This is indicated, for a group, by the words of the Exalted, “Allah accepts the repentance of those who do evil in ignorance and repent soon afterwards; to them will Allah turn in mercy: for Allah is full of knowledge and wisdom.”The third is that he does not belong to this grade of scholars. Knowledge has, therefore, not become an essential attribute for him, or like an attribute, even though he is being counted among such scholars. This has reference to a wrong belief of the scholar about himself or of someone else about him. This is indicated by the words of the Exalted, “But if they hearken not to thee, know that they only follow their own lusts: and who is more astray than one who follows his own lusts: and who is more astray than one who follows his own lusts, devoid of guidance from Allah? for Allah guides not people given to wrong doing.”¹⁸⁵ It is also indicated by the tradition, “Allah will not take possession of knowledge snatching it away from people” up to where he said, “People have accepted the ignorant as their leaders, who are asked and give opinions without knowledge, thus going astray and leading others astray.” In addition to this, there are the words of the Prophet (pbuh), “My umma (nation) will be divided into seventy-three sects of whom the most disruptive for my umma will be those who settle issues on the basis of their own opinions.” Thus, these people have fallen into opposition under the impression that their ignorance is knowledge, but they are not of those who are firmly established in knowledge, nor from among those for whom knowledge is almost like an attribute. In such a case there is no protection for them in knowledge. The objection applies to these people. (Mūsā Shāṭibī Ibrāhīm ibn, Nyazee Imran Ahsan Khan, and Raji M. Rammuny 2012, p.34)

Therefore, we can conclude from Shatibi’s work that Muslims must be careful when it comes to Muslim scholars if they are with Quran and prophetic Sunnah as mentioned by Prophet Muhammad in the last sermon of Hajj. Shahrur in fact rejected Hadiths completely when it comes to Islamic laws. Hence, it is never suitable to accept his way of interpretation related Islam.

3. Analysis

Strong Points

1. Shatibi was successfully draws the picture related maqasid al sharia that can be milestone for contemporary works for Sharia to face modern challenge.
2. Yusuf Al-Qardawi seems to suit with contemporary challenges within the framework of Quran and Sunnah
3. Iqbal seems to emphasize on adaptation with natural law theory but he advocated Quran and Sunnah
4. We can notice Ijtihadic approaches by various Muslim scholars in contemporary time.

5. Islamic Jurisprudence is definitive and there is chance for probable. Both sides of scholars portray dynamic nature of Islamic jurisprudence.

Weak points

1. We see Literalists that makes Islam look like very rigid
2. Shahrur makes Islam too liberal
3. Iqbal seemed to influenced by natural law theory
4. Shatibi’s definitive of Islamic jurisprudence seems giving no ground for Islamic scholars for Ijtihad related Islamic rulings.
5. The problem of blind following is still practiced when it comes to Islamic rulings
6. For Qardawi seemed accusing Muslim jurists for lack of scientific mentality

4. Criticism

On Shahrur

1. Shahrur could not deal with fundamental rituals of Islam using only Quran, rather he had to depend on Sunnah , but he did not maintain that when it comes to Hudud laws. More importantly the way he interpreted Quranic laws, it was completely aligned with western secular law. His purpose is very clear here. He just wants to advocate west as model for justice.
2. Certainly, he avoided to relate fighting against none-Muslims during the life of prophet Muhammad(pbuh) when he talked about political Islam claiming ‘No political Islam in Islam’. Again, he is just supporting West how west like to define Islam, Shahrur did exactly same.
3. He also could not provide any qur’anic concepts of lower limits when it comes to women dress code. Here also he is using western ideology for dress code of women.
4. He also could not deal with men and women work environment in contemporary context. He basically propounded idea of secular version of workplace.
5. He did not deal properly with the term ‘Jihad’ as Muhammad(pbuh) applied in the battles rather he took only western secular approach.

5. Addition

- Islamic rulings need to formulate some practical solutions that Muslim community is facing in multicultural environment.
- In universities especially in Muslim countries. Government needs to include the teachings of Islamic rulings to face challenges in practical fields.
- We need to synthesis Quran, hadith, and scientific approach in order to relate divine wisdom and reality as Qardawi mentions for Islamic Jurisprudence.
- We also need to take into consideration of early Muslim intellectuals for the interpretation of Islamic jurisprudence because if we look at the IS or Al-Qaeda, they also approached Quran without context . Shahrur did same thing not for the benefits of Muslims rather benefits of Western world.
- We also need to bear in mind that science is changing and it is not absolute. We explain something based one Newtonian physics and when it comes to quantum

mechanics, we need to change our interpretations. Hence, it is just not enough good approach to reject Islamic jurisprudence just because it does not align with so called secular natural law. The issue we need to understand in subatomic levels no traditional laws of physics work. Therefore, it is always better to use Prophetic approach when it comes to interpretations of Quran related Islamic law.

6. Conclusion

It is important for Muslim intellectuals and leaders of Muslim countries to have urge to come up with solution based on Islamic rulings and put into practice for themselves as well as for the community. It can be concluded that Shahrur approach definitely help to see Islam from different angle for modern Muslims and none-Muslims since he has used completely new interpretation. We can see few issues like Sunnah of Prophet, Islamic Jurisprudence, Political Islam in different angle. These problems were never approached the way Shahrur addressed by previous scholars.

For Fazlur Rahman (1980), he simply focused on the themes of Quran to see Quran in thematic way. But for Shahrur he not only discussed about the Quran rather he criticized heavily the hadiths. This is obviously blasphemous to some extent. There is one conversation that was quoted in the introduction of his book by editor:

As a Muslim Brother said to me in Kuwait in June 1993, Shahrur is “worse than Salman Rushdie” because he proclaims his faith in Islam but advocates a critical stance toward established conventions of authoritative learning. The Kuwaiti continued: “Not all Muslims have a high level of education or an ability to know Islam. That’s why we have committees of properly qualified scholars, to keep such books out of the hands of Muslims who cannot distinguish between Shahrur’s correct understandings and deviations, especially his errors on ideas of women and the family.”(Shahrūr Muḥammad, and Andreas Christmann,2009)

In addition, we can see more radical interpretations of Quran coming from LGBTQ and Feminists groups. The terrorists are also using radical interpretation to attack on civilians. In that circumstances, Shahrur’s rational tafsir perhaps carries some message for religious tolerance in contemporary secular world.

However, Shatibi, Abduh, Qardawi were more in line with Quran and Sunnah to deal with contemporary problems. Secular world never accepted religion for granted , then why Muslims should advocate their approach. Their laws are illusionary to protect human rights whereas Islamic laws given by Allah swt can eradicate injustice from society completely.

7. References

1. “Holocaust Theology: The Survivors Statement—Part II - JSTOR.” Accessed January 18, 2023. <https://www.jstor.org/stable/23260507>.
2. “رورحش دمحم سندنملا روتككدلل يمسرلا عقوملا” الرسمي | لذك نور الامهندس محمد شحرور. *yraunaJ desseccA*. 16, 2023. <https://shahrour.org/>.
3. H. Chad Hillier (2010) Muhammad Iqbal on al-fiqh: towards a natural law jurisprudence, *Journal of Islamic Law and Culture*, 12:3, 258-283, DOI: 10.1080/1528817X.2010.618022
4. HASAN, Md Maruf; ALI, Muhammad Mumtaz(2021) *Tazkiyat Al-Nafs and Scientific Worldview: Contrast*

- and Critique. *International Journal of Advanced Research in Islamic and Humanities*, [S.I.], v. 3, n. 4, p. 27-42, dec. ISSN 2682-8332. Available at: <<https://myjms.mohe.gov.my/index.php/ijarih/article/view/16628>>. Date accessed: 18 Jan. 2023.
5. Intisar A. Rabb, *Doubt in Islamic Law: A History of Legal Maxims, Interpretation, and Islamic Criminal Law* (Cambridge Univ. Press 2015).
6. Joseph S. Spoerl Joseph S. Spoerl is the Professor and Chairman, Joseph S. Spoerl is the Professor and Chairman, and View all posts by Joseph S. Spoerl. “Parallels between Nazi and Islamist Anti-Semitism.” Jerusalem Center for Public Affairs. Accessed January 18, 2023. <https://jcpa.org/article/parallels-between-nazi-and-islamist-anti-semitism/>.
7. Mūsá Shāṭībī Ibrāhīm ibn, Nyazee Imran Ahsan Khan, and Raji M. Rammuny. *The Reconciliation of the Fundamentals of Islamic Law. Volume I*. Reading, England: Garnet Publishing, 2012.
8. Saussure, F. de. (2011). *Course in general linguistics*. Columbia University Press.
9. Shahrūr Muḥammad, and Andreas Christmann. *The Qur'an, Morality and Critical Reason the Essential Muhammad Shahrur*. Leiden: Brill, 2009.
10. Sulaymān ‘AbdulḤamīd Abū, Yusuf Talal DeLorenzo, and AbūSulaymān ‘AbdulḤamīd A. *Crisis in the Muslim Mind*. New Delhi, India: Al Ittehad Publications, 2009.
11. Yasir S. Ibrahim (2014) An Examination of the Modern Discourse on Maqāṣid al Sharī’a, *The Journal of the Middle East and Africa*, 5:1, 39-60, DOI: 10.1080/21520844.2014.882676