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## **QURANIC PRINCIPLES OF UNIVERSAL LAW ON THE QURANIC EXEGESIS\***

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### **Abstract**

Islamic study of law is based on the four sources of law. The Quran is the primary source of Islamic law. The Sunnah or the life of Prophet Muhammad (Peace be upon Him) is the secondary source of Islamic law. The Quranic states, Indeed in the Messenger of Allah (Muhammad PBUH) you have a good example to follow (Quran Al Ahzab 33:21). The Ijtihad (reasoning) and Ijma (consensus of the juristic opinions) are the tertiary sources of Islamic Law.

The Mujtahid (Islamic jurist) distills the legal principles that govern Islamic law to form their reasoning and reach a consensus for legal matters at hand. The Islamic Jurists study the Quran to draw their frame of reference for the fundamental precepts of social, ethical and moral principles. This is called the Tafsir or the exegesis of the Quran. The Prophet's (PBUH) Sunnah is studied under the principles of Ilm Ul Hadith or the Science of Hadith. Ilum Ul Hadith follows the authenticity principle or Nas. The Islamic jurists study the chain of references of any hadith to establish its Nas for the purposes of any legal texts.

The Islamic law that has emerged through the doctrine of Ijtihad is heavily influenced by of the scholarly efforts and the credibility of the Mujtahids. Mujtahids are followed for their Islamic legal judgments through the principles of Taqleed (following). Ijmah is the settled case-law of Islamic Jurisprudence. Ijmah exists as the extension of the Timeless Law of the Creator due to its time-distance interpretations relevant to the legal problem of contemporary times.

It is settled Case Law in Islamic Jurisprudence that the doctrines of Islamic Law remain constant while the science of interpretation is according to the relevance of the time. The reason is the time-distance from the initial revelations of the Quran which offers Universally applicable principles of law that are relevant through all times. This paper attempts to study the underlying principles of the exegesis of the Quran to under the body of law which emerged from the exegesis

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<sup>a</sup> Asst. Prof., Kocaeli University, semayilmazgenc@kocaeli.edu.tr

<sup>b</sup> Dr., BPP University College, London, h.syed2@my.bpp.com

based on its nature of Universal applicability. The basis for our study is the seminal works of al-Sadr, *Falsafatuna* and *Iqtisaduna*. Al-Sadr's *Falsafatuna* has deep influences from Ibn Khaldun's social dimensions of Qurans exegesis and the Universal nature of the Islamic Law based on its primary source of Quran.

**Keywords:** Islamic Law, Principles of Universal Law, Exegesis of Quran, Philosophy of Law.



### KUR'AN-I KERİM TEFSİRİ TEMELİNDE EVRENSEL HUKUKUN KUR'ANİ PRENSİPLERİ

İslam Hukuku çalışmaları dört hukuk kaynağına dayanmaktadır. Kur'an birincil kaynaktır. Kur'ani düşünce uyarınca ikinci kaynak da sünnettir. "Andolsun, Allah'ın Resulünde sizin için; Allah'a ve ahiret gününe kavuşmayı uman, Allah'ı çok zikreden kimseler için güzel bir örnek vardır." (Kuran-ı Kerim, Ahzab Süresi 33:21). İcma ya da hukuki görüş konsensüsü doğrultusunda içtihat ya da mantık ise üçüncü hukuk kaynağıdır.

İslam hukukunda geçerli yasal prensiplerin özüne inmek için İslam hukukçuları Kur'an-ı Kerimi hukuksal pencereden inceler ve Kur'an tefsirinin temel kaideleri ile birlikte sosyal, etik ve ahlaki prensiplerden bir çerçeveye dikkat çekerler. Üçüncül hukuk içtihattan ya da taklid prensipleri üzerinden mücahidin ya da hukukçunun kredibilitesinden doğan gerekçeden doğar. İcma, incelenmekte olan yasal sorunla ilişkili olarak zaman-mesafe yorumları açısından yerleşik İslami içtihat hukuku üzerine hukukçular arasındaki fikir birliğini ifade etmektedir. Sünnet, Hz. Muhammed'e atfen metinlerde geçen ve aslına uygunluk belgelendirmesine atıf yaparak paylaşılan Kur'an'ın Nas'ları ile çatışmayan İlm-ül Hadis veya Hadis Bilimi ilkeleri altında yapılan çalışmalardır.

[Geniş Türkçe Öz çalışmanın sonunda yer almaktadır.]



### Introduction

Islamic jurists over the past fourteen centuries. Islamic and Non-Islamic scholars alike have taken a keen interest in the eloquent writings of the Quran. The Glorious Quran or Quran *al-Azeem* is the divine revelation upon the Prophet of Islam, Muhammad (Peace be upon Him). The Quran's first chapter *al-Fatihah* has seven short verses. Al-Fatihah is a compulsory recitation for the 5-times daily Muslim prayers, *al-Salah*. Arguably, it makes al-Fatihah the most recited verses of the Quran by over 1.5 billion Muslims recite the chapter five times a day as part of the obligatory prayers *al-Salah*. The Quran in its present form was compiled within the first four years Prophet (PBUH) death. The compilation was done during the time of the

third-righteous Caliph (Al Rashid), Usman Bin Affan. The words of the Quran have remained unchanged since its formal compilation around 634 AD. Muslims, regardless of their native languages are encumbered to recite the Quran in Arabic. The Arabic of the Quran is considered to be the most eloquent form of Arabic language called *al-Fusaha* by the scholars of the language (Badawi, Carter, & Gully, 2018). Traditionally, a Muslim child's learning initiation is with the recitation of the words of the Quran (Metcalf, 1996).

*Jamia al-Azhar*, Cairo (Halm, 1997), retains a prominent place in the *Sunni Madhabs*. *Al-Azhar* was established during the 10<sup>th</sup>-century Fatimid rule of Egypt (Bishai, 1968). The Fatimid's (909 AD to 1171 AD) were much closer to the *Shia Madhab*. *Al-Azhar* was converted as a *Sunni Madhab* School in the 12<sup>th</sup> Century by Saladin who was a Shafai Sunni. *Hawza al-Ilmiyah Najaf Iraq* (Frye, 1975) was established in the 11<sup>th</sup> Century by Sheikh Tusi as *Shia Madhab* School (Marcinkowski, 2007). *Hawza al-Ilmia Qum* and *Mashad*, Iran were established in the 13<sup>th</sup> century. *Najaf*, *Qum* and *Mashad* are the three most revered centers of *Shia Madhab* scholarship. Irrespective of the *Madahib*, the study of the Quran remains the focal point of all Islamic jurists and scholars. The Quranic doctrinal and philosophical teachings for *Sunni* as well as *Shia* scholars are without any contentions. Various Islamic Madhab scholars follow the works of each other for the Quranic exegesis (Khadduri, 1953). This common and shared tradition of Quranic exegesis amongst Islamic jurists continued through the medieval times till today. The reason for this shared tradition of the Quranic exegesis is due to the unchanged words of the Quran for the past fourteen hundred years. The Quran is the unchanged word of Allah's timeless law available to us today since its first revelation to Prophet Muhammad (PBUH) 14 centuries ago. No other book in the history of mankind has retained its original text with such precision, consistency and accuracy.

Ayatollah Baqir al-Sadr's Quranic exegesis is deeply philosophical and socially relevant to the dynamic changes of today's chaotic world. Al-Sadr was executed in 1980 by Saddam Hussain for his revolutionary social ideals of human justice and fairness that appealed to the masses. Al-Sadr's teachings were exclusively seeped in the Quranic laws of universal justice. Al-Sadr's work remains relevant and the focus of scholarly pursuits by the students of Islamic law from all Madhabs. Al-Sadr's mastery of Quranic exegesis manifests in his two masterpieces *Falsafatuna* and *Iqtisaduna*. The former is the philosophy of Quranic exegesis that explains the doctrines of Quranic Universal laws. The later explains the principles of Islamic

economics and universal equality based on the Quranic exegesis. The Quranic exegesis explained in this paper follows the reasoning offered by al-Sadr in *Falsafatuna*. The analysis attempts to explain the Universal nature of Islamic law through Quranic exegesis.

#### **A. Al-Sadr's Exegesis Topics of Quran**

Al-Sadr based explanation of Quranic exegesis relies on two methods. The methods are differentiated on the basis of the *classical* and contemporary approaches followed by Islamic scholars for Quranic exegesis. The *first method* according to Al-Sadr is the classical method. The classical method is a *verse-by-verse* exegesis of the entire Quran. The *historical background* related to each Quranic verse is considered. It includes the events that were happening at the time the verse was revealed to the Prophet (PBUH). The jurist has to then consider all the cases to which the verse was applied by the Islamic jurists in the jurisprudential history of Islamic law. The jurist then considers the legal problem at hand and expounds the relevant verses of the Quran to reach the legal decision. This historical background based legal interpretation of the Quran's individual verses is called *Tafsir Tajziyah* or *Exegesis Analytica*.

Al-Sadr's *second method* is based on the contemporary research of the Quranic verses. In this method, the Islamic jurist considers each verse in the light of contemporary rulings that applied the Quranic verse. The historical use of the verse by past jurists is also considered. The jurists have to consider the contemporary and historical jurists' use of the Quranic verse for a particular topic. The jurists then carry out the analysis of the various positions taken by the jurists. The analysis of each of those positions is based on the mental abilities of the jurist undertaking the analysis. The jurists then consider each of those positions in light of the authentic texts from the traditions of the Prophets (PBUH) and his family (Amirpur, 2005). This method is called *Tafsir Mauzui* or *Exegesis Topica*.

The medieval Islamic jurist and scholar Ibn Khaldun also preferred *exegesis topica*. This is astonishing that Al-Sadr and Ibn Khaldun are separated by seven centuries yet both Islamic scholars followed exegesis topica. The other Islamic jurists during the lifetime of Ibn Khaldun used *Exegesis Analytical*. Ibn Khaldun's work can, therefore, be considered centuries ahead of his time. Perhaps this might explain Al-Sadr's reverence for Ibn Khaldun and his frequent references to Ibn Khaldun's work in *Falsafatuna*.

The preference of *Exegesis Topica* by Khaldun raises the question about

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any historical links between the two methods of the Quranic exegesis. The time distance between the medieval method of *Exegesis Analytica* and the contemporary *Exegesis Topica* gives rise to this question. It is, therefore, necessary to understand the medieval Islamic jurists and the contemporary Islamic jurist's approaches to Quranic exegesis. This analysis will also assist in identifying the universal laws of the Quran.

The common element in both the methods of Quranic exegesis is how to formulate the question of law. The correct formulation of the legal question is the *critical element* to distill the supporting argument from the Quran. Thus the Quranic exegesis would be seriously flawed if the Islamic jurists are not able to rightly formulate the legal question at hand. It is only after the legal question is formed, that the basis for seeking the Quranic verse to satisfy the legal question can be rightly identified.

Once the jurist has correctly formulated the legal question, he is then ready to look at the existing jurisprudence and the Quranic verses underlying the legal principles that speak to the legal question. The first step after the formulation of the legal question is to search for existing cases in the Islamic jurisprudence. If no similar cases exist, then the doctrinal ideas closest to the questions at hand are searched. The jurist then carefully looks at all the researched ideas in front of him and draws clear conclusions about the relevance. If there is enough evidence to answer the framed question based on the existing jurisprudence supported by the Quran, then the analysis is complete. The jurist can deliver a contemporary legal decision based on the carefully reviewed selected medieval, classical or contemporary case law supported by the Quran.

It is crucial for the jurist to correctly apply the Quranic verses to the researched jurisprudential evidence from past cases. In Islamic jurisprudence, it is not enough to find familiar legal doctrinal precedencies in the secondary or tertiary sources of Islamic law. The researched past case law pertaining to the legal question must be confirmed through Quranic exegesis. This completes the process of Quranic exegesis to find any legal answers to the formulated legal questions.

On the face of it, it is difficult to assign any advantages of the contemporary *exegesis topica* over the medieval *exegesis analytical*. However, at the stage of the exegesis of the Quran, the jurists have to consider the links with the formulated legal question and supporting case law. Exegesis topica provides greater flexibility to view the Quranic verses in light of contemporary society and the dynamic social needs. This flexibility is

not available in exegesis analytical that fixates the legal precedence on the historical cases that are mostly medieval. Exegesis analytical focuses on doctrinal principles that are set and are not open to interpretation through Ijtihad. The rigidity of exegesis analytical and the flexibility of exegesis topica provide clear choices to Islamic jurists for their judgments.

The preference of exegesis topica by Al-Sadr and Ibn Khaldun's reflects their approach to Islamic jurisprudence that reflects flexibility in the matters of social justice. Both scholars prefer to interpret Islamic law for the purposes of achieving universal justice not just for the Muslims but for all members of the society (Mahmasani, 1959).

### **B. Social History of the Quran: Exegesis Topica**

*Exegesis Topica* also considers the *socio-historical* events narrated in the Quran as legal precedencies. The Quran has a unique way to narrate socio-historical events within its body. The Quran narrates socio-historical events that are significant to humanity for the purposes of highlighting the universal principles of social justice. The highlighted principles of universal justice are not specific to the Muslims; rather they speak to the entire humanity as single-body. The Quran does not differentiate the humanity on the basis of race, gender, religion or any other form of ethnicity. The Quran does not present any of the social events as transmitted factual history. The Quranic presentation of history focuses on three distinct types. The first type of historical narrations highlights social topics that are repetitive in history and relevant to humanity at all times. The second type is historical narration about a particular society that offers lessons to humanity at all times. The third type of narration is of historical views with social lessons that are detached from the limitations of time and space.

Al-Sadr asserts that the historical lessons of the Quran are based on principles of social justice that are detached from the limitations of *time* and *space*. Al Sadr's view is confirmed by reviewing any social topic historically. Every event in history carries a variety of versions based on the prejudices, biases and influences on the narrated version. The Quran chose to use history as a timeless context. In the Quranic context of history, the date, place and time stamps are insignificant. The only importance of historical events according to the Quran is to draw correct lessons for the guidance of humanity.

The Quranic view of transmitted history detached from the *time-date-space specifics* is to *free us* from the confinements and challenges of conflicting versions of historical events. The Quran takes a time-space-

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neutral view of history to highlight the social and legal principles that are necessary as the universal laws of justice.

Al-Sadr argues that the *time-neutral* Quranic historical narrations allow for the elucidation and deduction of universal laws. These laws are flexible enough to be applied for the contemporary social and legal challenges facing mankind. Al-Sadr argues that the social, legal and economic activities of the society based on the Quranic universal laws of justice are causative in nature. The Quranic *causative* laws prescribe the *collective* actions of the society and the *resultant* effects speak to justice within the society.

Al-Sadr argues that if the causative laws of the society are based on universal justice, then there is always hope for the individuals within the society to benefit from social justice. The causative principle of these Quranic universal laws allows for mid-course corrections if the society's man-made laws lead to social injustices. Al-Sadr argues that Islamic jurists play a vital role in reconciling the resulting conflicts that may arise between the universally just laws of the Quran and the man-made laws. According to Al-Sadr if the Islamic jurists' carryout their Quranic exegesis correctly, the jurists can prevent the negative causative present and future effects giving rise to injustice in society. The Islamic jurists have to consistently refer to historical events in the Quran for their legal questions that correspond to the Quranic universal laws of social justice.

The time-space neutral historical transmission of the Quran can be gleaned from Quranic story of the *People of the Cave (Quran al-Kahf 18:22)*

*“Some will say, they were three, their dog the fourth, and some say, five their dog the sixth, guessing at random, and some say Seven, and their dog the eighth. Say O Prophet! My Lord is best aware of their number. None knows them except a few. So do not argue about them.”*

The Quranic story of the People of the Cave carries the social context of justice. The time-neutral narrations are meant to provide universal principles of rights that extend to human as well as all other beings. The above quote speaks of humans as well as an animal taking shelter from injustice while hiding in a cave. The Quran draws the states that the number of refugees, including their dog, is not important. It is the causative suffering from injustice that is highlighted. The story also highlights the Quranic principle of nurturing life and doing all this is possible to preserve life. The story also highlights the Quranic universal principle of protecting all life forms that extend beyond human life (Zahraa, 2003).

The deduction of the universal laws from time-neutral history in the Quran also explored by great Islamic Jurist Ibn Khaldun in his *Muqaddima* or *Prolegomena* (Rosenthal, 1967). Ibn Khaldun posed the legal question about the laws relating to the development of the society. Ibn Khaldun relied on the Quran's *Exegesis Topica* (Genç, 2015). Ibn Khaldun explored this legal question under the socio-economic principles.

Al-Sadr followed Ibn Khaldun's legal arguments for socio-economic justice as the theoretical framework to answer the question about the development of human society (Alatas, 2006). Al-Sadr has further expounded on challenges facing Islamic jurists in answering legal and ethical questions such as stem-cell research, genetic modification, artificial intelligence and human cloning projects etc. Al-Sadr reconciled these important legal questions using the Quranic *Exegesis Topica*. Al-Sadr argues that the Quran is neither a book of science nor a book of history.

Al-Sadr asserts that human socio-scientific advancements run parallel with the universal principles laid down by the Quran. Al-Sadr argues that Islamic jurists need to balance the needs for scientific advancements with the *ethical* principles. Any advancement that gives rise to what is *just and equitable* for the whole society is permissible. The scientific advancements must be a response to the ethical needs of the society.

If the scientific advancements aggravate the social challenges then the man-made laws governing the scientific advancements should be reviewed in light of the universal laws of the Quran. This is to prevent the resultant harmful effects of any such advancement on the society at large. The Quran's highlights the principle of human choice. Quran repeatedly explains that human choice determines the causative effects of well-being in the temporal as well as spiritual life. The humans have the freedom of choice to either be free from being subjected to the universal laws of the Quran or to be bound by them. The resultant causative effect to be bound or free of the Quranic universal laws defines the course of human life.

Islam does not *impose* any of its Laws on the man-kind. Islam has offered us freedom of choice. The freedom in terms of our choices has been thoroughly explained in the Quran through its time-free historical narrations. The Quran's highlights the causative effects if those universal laws are ignored. The Quran explains complete freedom for humans to pursue thoughts, ambitions, and endeavors in any area of knowledge that benefits mankind. The ethical limits for those pursuits are defined by the Quran under the principle of causation.

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Al-Sadr argued that explained the universal laws of the Quran are based on the *Principle of Causation*. All human actions have consequences. The Quran states that the knowledge *al-Ilm* (Quran al-Imran 3:66) constitutes all knowledge through ages till the present-day science. The discovery of knowledge is exclusively based on the efforts of the individual and the society. Quran explains that there is no interference in this principle (Quran al-Baqarah 2:256). The pursuit of knowledge is amongst rights bestowed on the human race by the Creator. Quran also specifies knowledge that within the human reaches and knowledge that is outside the human reach (Quran al-Araf 7:187). The knowledge outside the human reaches *knowing* the precise *manifestation* of the future. The *events* that trigger the causative manifestation are within human control.

Al-Sadr argued that the causative principle also underpins the Quranic prohibition on speculative economic activities *Al-Gharar*. The Quran forbids *speculative* trade for economic purposes. The Islamic legal doctrine of *al-Gharar* (Kamali, 2000) or speculation is to prevent social harm. The 2008 global financial crisis is the resent manifestation of the causative harm from speculative trades. The 2008 global financial crisis t not only destroyed national economies, but it also led to the social crisis such as a significant increase in suicides (Stavropoulou, 2016).

Any knowledge that results from human-effort cannot envisage the future course of its causes and its effects once applied. For example, we can theorize about the results of a stem-cell intervention for a patient of blood cancer, but we cannot predict precisely the outcome of the treatment. We can also not foresee any harmful use of stem-cell science for the future of mankind.

The devastation caused the atomic bombs in Japan during the Second World War is well documented. The subsequent chains of human and environmental losses are still not very clear in terms of their devastations. Similar atomic devastations have happened in other countries. The atomic science itself is not destructive in nature. It is the way humans apply the knowledge that causes the destruction of the planet. The Quran states that human knowledge itself cannot indicate the benefit or for the destruction of mankind. The function of knowledge is limited to its insipid nature. The added dimension of the laws applied to the knowledge ultimately determines its cause and the effects.

Al-Sadr argued that humans have discovered various types of knowledge through sheer hard work. The *nature* of any body of knowledge

is determined by the laws that define its use. To correctly determine the causative effects of human knowledge, it is therefore incumbent to correctly apply laws that are universally just and fair to the entire mankind. The Islamic jurist must adhere to the principles of universal justice defined by the Quran in determining the application of modern science and resulting knowledge.

This *Principle of Causation* explained by the Quran is universal in nature. It applies to all times and all societies. The *causative principle* of the Quran can be understood by observing the human sufferings globally. The humans to use their knowledge to wage wars, cause hunger through economic sanctions and intentionally *inflict* diseases to other races (Wunder, 1992).

All of these causative humans' actions are fully justified through the man-made laws regardless of the morally reprehensible outcomes. Weaker nations are subjected to detrimental laws that cause great human suffering. We continue to witness demonstrations across the globe against certain man-made laws about fundamental human rights, economic deprivation, and environmental destruction. The countries violating these universal values continue to thrive and prosper. The historical narrations of the Quran give us an opportunity to examine such contentious man-made laws. The Quran calls for continued strives and standing up to oppose such laws man-made laws that violate the Quranic universal laws of social justice and human dignity.

The Quran proposes universal laws for the guidance of human actions. These laws encourage humans from resisting perversions such as violations of human rights, distorting human dignity and indulging in behavior that erodes justice and equality from the society. This explains the need for divine guidance. If human society is not guided by moral and ethical laws that are to protect the human race and other beings, the causative effect of such deviation is bound to pervert society. The Quranic *exegesis* leads to the discovery of such universal laws that can guide humanity. These laws form can help mankind charter a course that can prevent destruction and encourages socially responsible behavior of mutual well-being.

The regulation of the societies or communities through ages has been based on defined man-made laws (Maine, 1907). The human society is ruled by forced laws, laws formulated through collective wisdom or laws guided by the moral principles. These underpinnings define the body of law within any society. At the root of any law-making is the natural ability of human choice. The contemporary legal theories expound on the principle of the *Rule*

of Law.

The rule of law is the ability of law to ensure that the law is predictable and transparent. The predictability and transparency of the law allows the members of the society to modify their behavior according to the law. The rule of law is to prevent society from becoming chaotic and ensure that the rights of all its members are equally protected. History tells us that no society in the entire written human history can claim to be just and fair to all. Each period of history provides evidence of those suffering because of the man-made law and those proposing from the man-made law. There are no societies that offer any universal laws to protect all forms of life. Sporadic, organic and inorganic legal rules shape the legal history of mankind. Al-Sadr expounded on the *universal nature* of Islamic laws. Al-Sadr argued the universal nature of the Islamic law in the context of criticism leveled against the applicability of Islamic law to contemporary social issues.

### C. Universal Nature of Islamic Law: Contemporary Relevance

One of the main criticisms leveled against Islamic Law derived from the Quran is that it has utopian ideals of *social justice* and *equity* etc. Criticisms also states that contemporary Islamic jurist often fail to prove that the Quranic *ideals* of social justice and equality can be achieved (Addas, 2008).

Al-Sadr argues that there are two dimensions to this criticism. The *first* dimension is about the *lack of described means to achieve* the objectives of the Islamic Law. The *second* dimension is the lack of an existing *framework* to assist the Islamic Jurist in formulating the legal questions essential to help answer the legal question. This argument is valid if we only focus on the *specific mechanisms* desired by the critics to achieve objectives such as social and economic laws.

Al-Sadr considered this criticism is *Falsafatuna* and *Iqtisaduna*. Al-Sadr presented his case based on the Quranic principle of *human choice*. Al-Sadr argued that human choice shapes human life through the doctrine of causation. Islam clearly defines the significance of human choices on the temporal and spiritual aspects of human life (Hassan, 1968).

For the temporal life, Islam calls for a socially inclusive society. In such a society, each member has the democratic right to participate. Quran clearly states,

*“Their communal business is to be transacted in consultation among themselves” (Quran Ash Shuraa 42:38).*

The universal law set in the above verse is to protect the exercise of the *Democratic Rights of Social Inclusivity*. Further specific social laws can be formulated on this universal Quranic principle.

For the spiritual life, the only added dimension to the above principle is that we must guide all our temporal actions under the guidance of the Quran and Sunnah. The Quran states,

*“Whenever Allah and His Prophet have decided a matter, it is not for a faithful man or woman to follow another course of his or her own choice” (Quran al-Azhab 33:36).*

The above verse of the Quran stresses the word *human choice* within the subjective limits of the Quran and the Sunnah. Islam takes an inclusive and organic view of intrinsically interlinking the temporal and spiritual lives. One does not exist without the other. In Islam, there is no *separation* between temporal and spiritual life. The spiritual life carries the distinct *eternal* element of *continuation* of temporal life in its broadest meaning.

Islam provides an inclusive and organic body of law based on human choice. The choices of subscription to a law that is guided by the universal laws of Quran impact *how* to view human behavior within the scope of the society as a whole.

It is for this purpose the story of Moses (PBUH) (Quran *al-Araf* 7:122) states, *Has the story of Moses reached thee?*. The Quran is not concerned with the details of Pharaonic history. It simply omits all the historic details by posing the question with Moses as the center. The story in the Quran concerns itself with the social laws that the Pharaoh had imposed on the people of Israel. The story highlights the man-made laws effects of the causative legal injustice against the people of Israel.

Al-Sadr argues that the Quranic universal laws allow mankind with an opportunity at various intervals of history to choose the best possible legal system. Such a legal system can be derived from the legal principles of the Quranic universal laws of social justice and equality. Al-Sadr emphasizes that the Quranic history can *only* help us in deriving the general principles of universal laws. The specifics must be balanced with the social needs of contemporary times that protect life in all forms. Al-Sadr’s arguments provide cogent answers to the criticism levelled against the Islamic law. Al-Sadr frees the contemporary Islamic jurist from the confines of seeking specific *implementation mechanism* within the corpus law of Islam.

Al-Sadr argues that the Quran seeks the ultimate success of mankind. Al Sadr asserts that the human effort must be combined with the divine law

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of the Quran to achieve social justice through the universal laws of the Quran. Al-Sadr offers evidence from Quran. The Quran states,

*“Behold! In the creation of the heavens and the earth; in the alternation of the night and the day; in the sailing of the ships through the ocean for the profit of mankind” (Quran al-Baqarah 2:164).*

The Quran explains that the universal laws of Islam follow the natural laws of causation. No divine succor interferes in the matters of human choice. The laws adopted and made by humans dictate the outcome of the course taken by human history. The Quran gives the historical reference to the 625 AD Islamic *Battle of Uhud* during the life of the Prophet (PBUH) and the army of Mecca (Watt, 1996). The Quran states:

*“If you have suffered a setback, a similar setback was suffered by your enemy as well. We bring about these tribulations in man’s life” (Quran al-Imran 2:140).*

The above verse of the Quran emphasizes the Quranic universal law that there is no divine intervention for human conflicts. It is the *principle* that separates the parties in the conflict. The Prophet of Islam (PBUH) was fighting to save the city of Madinah when it was attacked by the army of Mecca. The Prophet (PBUH) had strictly placed a party of his companions to guard a passage coming into the valley of Uhud. His companions violated the Prophet’s (PBUH) orders and left the post. Resultantly, the Muslims suffered a loss of life. The above verses of the Quran make a reference to the event.

The loss of life or any other suffering attached to any conflict is unavoidable for either party. The material understanding of *victory* and *defeat* during any conflict is explained by the verses. The Quranic principles state that losses in any conflict leading to human suffering are separate from any moral stand that one takes during a conflict.

Victory of defeat in physical terms in separate from any moral stand that a side may choose to take. Purely from the point of view of physical victory, it is the man’s knowledge of the *art of warfare* that decides the victory or defeat on the battlefield including the preparedness for war. Quran does not teach complacency nor teaches to look towards the *heavens* for help in such matters. Rather the Quran teaches to fully educate and verse ourselves in all walks of life. The Quran teaches us to acquire knowledge so that we can better protect our communities. The human suffering that we witness every day is the causative effect of human actions and does not involve any divine interventions.

The universal laws of the Quran help guide mankind to avoid such suffering through the adoption of laws that prevent social harm. If a society becomes perverted and the laws of the society invoke harm, a single person standing against such tyranny cannot escape the harm. The moral standing and repulsion to perverted human laws cannot help to prevent suffering by the fair and just members of that society. No divine succor will come to their aid. The Quran says:

*“And beware of involving yourselves into a conflict, the consequences of which shall surely not affect in particular those who are wrong-doers” (Quran al-Anfal 8:25).*

The collective behavior of a society is different from the individual's behavior. Yet, the collective behaviour defines the overall perception of a society, the impact of ill behavior on all members and the resulting laws that society follows. The individuals collectively form the society. However, individuals who are part of an unjust society cannot escape the adverse consequences of unfair laws.

According to the Quran, the people of Israel were under the oppressive rule of the Pharaoh. The people of Israel needed collective action to rid them of the Pharaoh's oppression. Accordingly, when Moses (PBUH) asked his community to join him in the fight against the Pharaoh, the community collectively replied, *“So, go you and your Lord and fight them. We are sitting here”* (Quran al-Maidah 5:22).

The Quran, states that the refusal of the people of Israel to rise against the Pharaoh prevented their relief from the tyranny of the Pharaoh. The verse shows that the people of Israel taunted Moses to seek divine succor to gain victory over Pharaoh.

Quran lays out a universal principle for those seeking refuge from oppression and tyranny without making efforts to resist the oppressor. The Quran states,

*“He answered, then this land shall be forbidden to them for forty years during which period they will be wandering aimlessly across the earth” (Quran al-Maidah 5:26).*

Al-Sadr asserts that the reference to the *forty-years* is metaphorical and does not convey the exact historical times. The Quran explains that efforts must be made to rid the community of any oppression. No divine succour is available. It is the community that has the moral obligation to fight oppression and injustice. The universal law here also extends to the obligation of humans to raise their voice and act for all oppressive actions

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based on injustices. Islam does not teach submission, passive behavior or tolerance for violation of fundamental human rights and freedoms.

Al-Sadr referred to the example set by the Prophet Muhammad's family against the oppression of the Islamic Ummah during the rule of Umayyad rulers (647-683 AD) especially Yazid Ibn Muawiyya (Salama, 1992). The 680 AD Battle of Karbala (Yildirim, 2015) marks an important milestone in the history of Islam. Imam Hussain (PBUH) was the grandson of the Prophet (PBUH). He refused to accept the tyrannical rule of Yazid Ibn Muawiyya. He fought the 4000 strong army of Yazid along with only 72 companions during the battle of Kerbala. The Battle of Karbala became a symbol for upholding the principles of justice and offering the supreme sacrifice of life to abide by the principles of Islam.

#### **D. The Universality Principles of Social Change**

Al-Sadr asserts that the Quran has laid down general principles that govern social change for the betterment of society. Al-Sadr argues that social processes that lead to generations of injustice cannot be stopped or undone until the individuals who form the society decide to change the course of the causative events. The Quran states,

*"Allah does not change the condition of a people until they change that which is in their hearts" (Quran al-Rad 13:11).*

This desire to change the course of causative events that lead to successful social change is the key according to al-Sadr. Al-Sadr refers to this as *saving the individual from the impact of an adverse law and adopting a different yet better law*. Al-Sadr quotes the Quran,

*"Every nation has a term; when it comes, they cannot put it back a single hour, nor can they put it forward" (Quran al-Araf 7:34).*

According to Al-Sadr, each society has limited ordained time. The society must act within that given time to change the course of unjust events. Al Sadr argued that the consequences of injustice and oppression are borne by those subjected to it. Such consequences continue until those oppressed decided to undo them. The Quran states,

*"If Allah took people to task by that which they deserve, He would not leave a single living creature on the surface of the earth; but He reprieves them to an appointed term" (Quran al-Fatir 35:45).*

Al-Sadr also argued that the Quran's universal law does not refer to the social changes in terms of years or decades. The social change that is referred by the Qurans is in reference to perpetuity and encompasses all times. Al-Sadr argues that for any society, the time is a relative function and only

relative *promptness* in terms of the actions is to be taken into consideration. Therefore, any changes that occur following the universal laws of the Quran should not be too expected to dramatically change society. The change will occur as society embraces social justice and the laws. Each society's movement tyranny and oppression would occur in their own *appointed* time and according to their efforts.

Al-Sadr argues that the historical norms defined in the Quran are *universal*. Al Sadr offers evidence from the Quran,

*"You will not find for Divine Law any substitute, nor will you find in Divine Law any change" (Quran al-Fatir 35:43).*

Al-Sadr argues that fixed norms give rise to the laws of society. Any divine characteristics attributed to the laws arising from the fixed norms require a deeper understanding of the Quran. An Islamic jurist cannot resolve these conflicts of fixed norms that drive the man-made law and divine attributes. Al-Sadr explains that all *physical relations* in their *nature* follow the principle of *Cause and Effect*. Any exclusion from the principle of *Cause and Effect* would result in humans developing an alternative belief in *Spontaneous, Miraculous* or a direct *Divine Succour*.

Such an alternate belief would logically force human society to abandon all established branches of science and abdicate the *Causative* principles. Al Sadr asserts that such alternative beliefs are against the teachings of Islam. The example of alternate belief by abandoning the principles of Cause and Effect is visible in the teachings of medieval Christian theologians such as St. Augustines (Schaff, 2007). St. Augustine stressed that *divinity* requires the negation of the principles of *causes and effects*.

Al Sadr argues that to subscribe to a belief that any sphere of human life is *directly* governed by the *will* of Allah, is, *irrational and contrary to all scientific knowledge and principles*. This also against the Quranic principle of Causation. The Quranic exegesis states that the fixed norm of the Divine will allow life in all forms to pass through the processes governed by the principle of causes and effects.

The Islamic law accepts the scientific principles of causation about the universal systems. The only added dimension is that the Muslims believe that Allah is the Creator of all universal systems.

Al-Sadr reconciled Islamic law with the scientific causation principles by using the simple analogy of rainfall. Al Sadr argued that Islamic jurist believes that rain is a consequence of Allah's created system. This belief in the Creative essence of Allah underpins the acceptance of the scientific

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principles of rainfall as explained by human knowledge. The underlying principle for rainfall does not negate the scientific principles that govern the process of evaporation of sea-water and the rise of vapors to form rain clouds.

Al-Sadr finds no tension between the Islamic Divinity principle and the acceptance of the principles of science. Al-Sadr easily navigates this complexity by stating that science operates on the causative principles to formulate experiments, deductions, and analysis. However, science cannot ignore the underlying *reality* of all created systems within the known universe. That reality is the Divine Principle of Allah's creation. The choice to *not* acknowledge the underline *reality* comes with causative results. Al-Sadr concludes that ignoring the underline reality of Allah's divine presence in the perceived harm of self-conceit. This fundamentally unique insight offered by Al-Sadr demands a deeper analysis.

### **Conclusion**

The exegesis of the Quran by Al Sadr has set a new course for Islamic thought on the universal nature of Islamic law. Al-Sadr has freed the Islamic thought from the rigid confines of purely linguistic interpretations. Al-Sadr has opened the Quranic knowledge for Islamic jurists to expand the exegesis of the Quran. There is a rising criticism against the development of Islamic law focused narrowly on the Shariah principles of economics. The legal thought of al-Sadr is a powerful argument in dispelling that criticism.

Al-Sadr has pointed us in the direction of engaging in a philosophical conversation to explore the sensitive topics of beliefs and science. Al-Sadr offers the path of critical analysis for Quranic *Exegesis Topica*. Al-Sadr has also drawn the attention of Islamic Jurists to challenge the customs in the Muslim world. Al-Sadr wants us to challenge regimes in the Islamic world that are against the Quranic principles for freedom of choice and equal rights for all humans without discrimination.

It is hoped that this paper will draw the attention of wider readership within the academic as well as social community to explore further the enlightenment that is the Quran. Ibn Khaldun set the tone and al-Sadr has blazed the way for the delicate and balanced discussion for the Quranic exegesis. Al-Sadr is a symbol of change by following the edifices of the Quran. He gave his life for the cause of Quranic scholarship. The only fitting tribute to this great scholar of the Quran is to keep furthering the work that he started.



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## KUR'AN-I KERİM TEFSİRİ TEMELİNDE EVRENSEL HUKUKUN KUR'ANÎ PRENSİPLERİ\*

● Sema YILMAZ GENÇ<sup>a</sup>

● Hassan SYED<sup>b</sup>

### Geniş Öz

*“Yaşadığımız şu devirde Müslüman aydınlar ile halkın kavrama düzeyi arasında derin bir uçurum var. Gerçekten de birçok kişi için, büyük çabalar harcamadan Müslüman aydınların o çok yüksek düşünce seviyesine ulaşmak oldukça zor. Bu yüzden okuyucunun İslami bakış açısının o eşsiz niteliğini fark edebilmesi için bu seviyeye yükselmesini sağlayacak bir kitapla işe başlamak kaçınılmazdı.”*

**Muhammed Bakır Es-Sadr**

İslam Hukuku çalışmaları dört hukuk kaynağına dayanmaktadır. Kur'an birincil kaynaktır. Kur'ani düşünce uyarınca ikinci kaynak da sünnettir. “Andolsun, Allah'ın Resulünde sizin için; Allah'a ve ahiret gününe kavuşmayı uman, Allah'ı çok zikreden kimseler için güzel bir örnek vardır.” (Kuran-ı Kerim, Ahzab Süresi 33:21). İcma ya da hukuki görüş konsensüsü doğrultusunda içtihat ya da mantık ise üçüncü hukuk kaynağıdır.

İslam hukukunda geçerli yasal prensiplerin özüne inmek için İslam hukukçuları Kur'an-ı Kerimi hukuksal pencereden inceler ve Kur'an tefsirinin temel kaideleri ile birlikte sosyal, etik ve ahlaki prensiplerden bir çerçeveye dikkat çekerler. Üçüncül hukuk içtihattan ya da taklid prensipleri üzerinden mücahidin ya da hukukçunun kredibilitésinden doğan gerekçeden doğar. İcma, incelenmekte olan yasal sorunla ilişkili olarak zaman-mesafe yorumları açısından yerleşik İslami içtihat hukuku üzerine hukukçular arasındaki fikir birliğini ifade etmektedir. Sünnet, Hz. Muhammed'e atfen metinlerde geçen ve aslına uygunluk belgelendirmesine atıf yaparak

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<sup>a</sup> Dr. Öğr. Üyesi, Kocaeli Üniversitesi, semayilmazgenc@kocaeli.edu.tr

<sup>b</sup> Dr. BPP University College, London, h.syed2@my.bpp.com

paylaşılan Kur'an'ın Nas'ları ile çatışmayan İlm-ül Hadis veya Hadis Bilimi ilkeleri altında yapılan çalışmalardır.

İslam tefsir tarihinde yaygın tefsir anlayışı Kur'an'ın ayetlerini Fatiha'dan Nas Suresi'ne kadar teker teker ele alıp inceleme şeklindedir. Muhammed Bakır Es-Sadr teczii tefsir olarak nitelediği bu inceleme şeklinin her adımında temel hedef ilahiyatçıların üzerinde çalıştığı ayetin yol göstericiliğini, imkan dahilindeki her türlü vasıta ile anlamaya çalışmasıdır. Muhammed Bakır Es-Sadr göre teczii tefsirin özü Kur'an ayetlerinin ayrı ayrı ele alınarak değerlendirilmesi ve bu ayrı ayrı anlamların bir araya getirilmesiyle oluşan anlam yığından öte bir şey ifade etmez. Yani bu tefsir anlayışı Kur'an-ı Kerimi pek çok hakikate kavuşabilir fakat bunlar darmadağın bir yığından öteye gitmez ve aralarında en ufak bir bağ dahi bulmak mümkün olmayacaktır. Tüm bunları incelemek hayatın her sahasını kapsayan bir "Kur'an Düşüncesi"nin boyutlarını tesbit etmede bir fayda sağlamayacaktır (Es-Sadr, 1987). Bu nedenle Muhammed Bakır Es-Sadr alternatif olarak Kur'an bütünlüğünde değerlendiren mevzui tefsir anlayışını sunmaktadır.

İslam hukuku içtihadında İslami hukuk doktrini sabit kalır ancak zaman içerisinde yorum değişir. Mantık, tüm zamanlar için geçerli olan evrensel hukuk prensipleri sunan Kur'an'ın ilk vahiylerinden sonraki zaman farkıdır. Bu çalışmada evrensellik temelinde Kur'an tefsirinin altında yatan prensipler incelenmektedir. Bu çalışmamızın temelinde Muhammed Bakır Es-Sadr'ın 1959'da yayınlanan İslami bir bakış açısıyla, özellikle kapitalizm ve sosyalizm olmak üzere Avrupa felsefesinin bir eleştirisidir Falsafatuna (Felsefemiz) ve 1982'de yayınlanan İqtisaduna (Ekonomimiz/İslam Ekonomi Doktrini) adlı eserlerinin ufuk açıcı çalışmaları yer almaktadır. Muhammed Bakır Es-Sadr'ın Falsafatuna'sında Kur'an tefsirinde İbni Haldun'un sosyal boyutları ve birincil kaynak olan Kur'an temelinde İslami hukukun evrensel doğasının derin etkileri vardır.

Kur'an'ın ilk bölümü olan Fatiha suresi, modern tarihin belki de en çok dile getirilen (dini) cümleleri barındırmaktadır, nitekim 1,5 milyardan fazla Müslüman günde beş kez farz olan namaz ibadetinde bunu defalarca okumaktadır. Kur'an ilk vahiyden ve peygamberin MS 630 yılında ölümünden sonraki ilk 10 yıl içinde bir araya getirilmesinden itibaren değişmeden kalmıştır. Anadillerinden bağımsız olarak tüm dünyadaki Müslümanların Kur'an'ı Arapça telaffuz etmeleri gerekmektedir. Şii ve Sünni akademisyenler arasında Kur'an incelemesinde, herhangi bir tartışma olmaksızın, fikir birliği mevcuttur. Bunun nedeni ise Kur'an'ın son on dört asırdır testlerden geçmiş orijinal metnine sorgusuz imandır. Kur'an'ın

herhangi bir kısmına dair gramatik ya da yorumsal mantık farkına ilişkin küçük iterasyonlar her iki düşünce tarafından sunulan paralel çalışmalar temelinde kolaylıkla çözülebilir. Bu nedenle de Muhammed Bakır Es-Sadr gibi modern Kur'an tefsiri akademisyenleri hem Sünni hem de Şii mezhebinden İslam hukuku öğrencileri tarafından takip edilmektedir. "Benim profesyonel işim eserler yazmak, araştırmalar yapmak veya dersler vermek değildir. Benim asıl vazifem, şer-i mesuliyetimi yerine getirmektir" diyen Muhammed Bakır Es-Sadr'ın toplumsal konuları ele alış şekli ve bakış açısı mezhep ayrılıklarının üstüne çıkar ve Müslüman ülkelerde eserlerinin referans gösterilmesi, O'nun Müslümanlar üzerindeki büyük etkisini yeterince ortaya koymaktadır. Muhammed Bakır Es-Sadr'ın Kur'an tefsiri uzmanlığı kendisini Falsafatuna ve İqtisaduna adlı eserlerde göstermektedir. Bu iki eserden ilki evrensel Kur'an hukukunun prensiplerini belirlemek amacıyla yazılmış iken ikincisi ise Kur'an tefsiri temelinde İslami ekonomik düşünceye ilişkindir. Bu çalışmada İslam hukukunun evrensel doğasına ilişkin onun değerlendirmelerini incelemek için Muhammed Bakır Es-Sadr'ın Kur'an tefsirini Falsafatuna üzerinden irdelenir. Muhammed Bakır Es-Sadr'ın Kuran tefsiri, İslam hukukunun evrensel doğası üzerine İslam düşüncesi için yeni bir süreç başlatır. Kuran'dan bunun için kanıt sunar: "...Ya onlar daha evvelki (ümmeatler hakkında geçerli olan) kanundan başkasını mı bekliyorlar? (Hayır) sen Allah'ın kanununda (sünnetinde) asla bu değişiklik bulamazsın" (Kuran- Kerim, el-Fatır, 35/43). Muhammed Bakır Es-Sadr, İslami düşünce sürecini tamamen dilsel yorumların katı sınırlarından kurtarır ve Kuran'ın incelemesi konusundaki tartışmalar için daha geniş bir bilgi birikimi getirir. Bankacılık ve Finans ile ilgili Şeriat konularına yoğun bir şekilde odaklanmak için İslami hukukun geliştirilmesine yönelik artan bir eleştiri vardır. Muhammed Bakır Es-Sadr'ın hukuki düşüncesi bu eleştiriye dağıtmada güçlü bir argümandır.

**Anahtar Kelimeler:** İslam hukuku, Evrensel hukuk ilkeleri, Kur'an tefsiri, Hukuk Felsefesi.

