

The Renewal of Uṣūl al-Fiqh: 'Ali Jum'ah's Reconstruction of Islamic Legal Theory

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Abstract

Contemporary realities have become increasingly complex, raising questions about the adequacy of the inherited methodological framework of classical uṣūl al-fiqh in addressing emerging intellectual and legal challenges. Although previous studies have examined 'Ali Jum'ah's proposals for renewing uṣūl al-fiqh, they have primarily identified individual reform elements without sufficiently explaining their conceptual and methodological relationships as an integrated construction. This study aims to analyze the reconstruction of uṣūl al-fiqh renewal in 'Ali Jum'ah's thought. Using qualitative library research, the study examines his major works, particularly *Qaḍīyyat Tajdīd Uṣūl al-Fiqh*, *Tajdīd 'Ilm Uṣūl al-Fiqh: al-Wāqī 'wa al-Muqtaraḥ*, *Tārīkh Uṣūl al-Fiqh*, and *Wa Qāla al-Imām*, by identifying, classifying, and analyzing his proposals for restructuring the discipline. The study finds that 'Ali Jum'ah's project comprises two principal dimensions: the restructuring of its organizational framework (*al-shakl*) and the reformulation of its substantive foundations (*al-maḍmūn*). These dimensions are interconnected rather than isolated reforms, collectively forming a methodological reconstruction that retains the foundational resources of the *turāth* while developing their capacity to engage with changing realities. This study thus contributes a more integrated account of 'Ali Jum'ah's renewal project by clarifying its underlying conceptual and methodological framework.

INTRODUCTION

The issue of renewing *uṣūl al-fiqh* has emerged as one of the most critical and complex challenges confronting contemporary Islamic thought in recent decades. This significance may be attributed to several considerations. *First*, the gravity of the discourse on the renewal of *uṣūl al-fiqh* lies in its direct engagement with the foundational principles of Islamic legal discourse and its epistemological underpinnings, while the concept of renewal itself is fundamentally grounded in the centrality of human reason. *Second*, the challenge also stems from the lack of conceptual clarity and coherent vision regarding the process of *uṣūlī* renewal, particularly because the subject remains relatively novel in terms of its analytical treatment and theoretical formulation. *Third*, the scientific and epistemic value of *uṣūl al-fiqh* as the foundation for juridical knowledge and *ijtihād*-based reasoning renders any transformation within its structural framework highly consequential. Any modification or shift in its foundational structure will inevitably affect the production of Islamic legal knowledge, as well as other interconnected fields of knowledge, whether theoretical or applied.¹ Therefore, the study of renewal (*tajdīd*) in *uṣūl al-fiqh* is not merely an academic endeavor but also an urgent necessity for addressing the dynamic challenges of Islamic law in the contemporary era.

Nevertheless, throughout its thirteen-century intellectual development, *uṣūl al-fiqh* has experienced substantial reconstruction in both its methodological structure and the substantive scope of its discourse.² Despite these developments, classical *uṣūl al-fiqh* has been subject to growing criticism in the contemporary era, with many scholars contending that it has become increasingly detached from the changing realities and legal challenges of modern society.³

In response to growing criticism that classical *uṣūl al-fiqh* no longer adequately addresses contemporary realities, a number of scholars of Islamic legal theory have proposed different approaches to its renewal. Among the most prominent contemporary voices is 'Ali Jum'ah. He views *uṣūl al-fiqh* as a dynamic methodology capable of evolving in response to changes in time and place. As a methodological discipline, *uṣūl al-fiqh* is inevitably shaped by the social and historical contexts in which it develops. Given that it

¹ Hasan Shahid, *Nazariyyah al-Tajdīd al-Uṣūlī: Min al-Ishkāl ilā al-Taḥrīr* (Beirut: Markaz Namā' li al-Buḥūth wa al-Dirāsāt, 2012), 22–23.

² 'Ali Jum'ah, *Tārīkh Uṣūl al-Fiqh* (Kairo: Dar al-Muqaṭam, 2015), 5–9.

³ Lena Salaymeh, *The Beginnings of Islamic Law: Late Antique Islamicate Legal Traditions* (Cambridge: Cambridge University Press, 2016), 11–12, <https://doi.org/10.1017/9781316459485>; Mohammad Fazlhashemi, *Internal Critique in Muslim Context dalam "A Constructive Critique of Religion: Encounters Between Christianity, Islam, and Non-religion in Secular Societies"* (London: Bloomsbury Academic, 2020), 63–64.

has evolved over many centuries, 'Ali Jum'ah argues that its principles and methodological framework must be continuously re-examined, refined, and adapted to meet the demands of changing circumstances. From this perspective, the renewal of *uṣūl al-fiqh* is not merely desirable but indispensable.⁴ At the same time, he emphasizes that such renewal must be guided by clear methodological standards to ensure that it remains faithful to the objectives and foundations of Islamic law.⁵ He further contends that rejecting the renewal of *uṣūl al-fiqh* is an untenable position, as it ultimately threatens the integrity of the Shari'ah in its entirety, encompassing both its foundational principles and its subsidiary rulings.⁶

Furthermore, 'Ali Jum'ah emphasizes that any genuine renewal must originate from the *turāth* (Islamic intellectual heritage). Such renewal should proceed within a well-defined and systematic framework, undertaken with intellectual seriousness and grounded in sound understanding and critical awareness, rather than arising from a rejection of the *turāth* or an inability to comprehend its substance.⁷ At the same time, 'Ali Jum'ah argues that not every aspect of *uṣūl al-fiqh* requires renewal. He maintains that *uṣūl al-fiqh* consists of three essential components: definitions (*ta'rīfāt*), legal principles (*qawā'id*), and substantive legal issues (*masā'il*). According to him, the definitions (*ta'rīfāt*) and technical terminology of *uṣūl al-fiqh* have attained conceptual stability and therefore do not require revision. The legal principles (*qawā'id*), however, demand extensive scholarly effort, particularly through documenting inductive patterns that have developed throughout Islamic legal history but remain uncoded, as well as integrating insights from modern linguistic studies, especially semantics, to examine the relationship between words, meanings, their implications, and the distinctions between literal and figurative language along with its various levels. As for the substantive issues (*masā'il*) of *uṣūl al-fiqh*, 'Ali Jum'ah considers it entirely appropriate to restructure their presentation and redesign their systematic organization, whether to generate new legal insights or to make the classical discourse more accessible and coherent.⁸

A number of previous studies have examined the theme of *tajdīd uṣūl al-fiqh* and the thought of 'Ali Jum'ah. Among them, the study conducted by Muhammad Zainuddin Sunarto, Tutik Hamidah, and Abbas Arfan explores the renewal of *uṣūl al-fiqh* in the thought of 'Ali Jum'ah. The authors identify several key elements of 'Ali Jum'ah's

⁴ 'Ali Jum'ah, "Tajdīd 'Ilmi Uṣūl al-Fiqh al-Wāqī' wa al-Muqtarah," *Majallah al-Muslim al-Mu'āṣir*, no. 125–126 (2007): 39.

⁵ 'Ali Jum'ah, *Āliyyāt al-Ijtihād* (Kairo: Dar al-Risālah, 2004), 99.

⁶ 'Ali Jum'ah, *Qaḍiyah Tajdīd Uṣūl al-Fiqh* (Kairo: Dar al-Hidāyah, 1993), 54.

⁷ Jum'ah, 50.

⁸ Jum'ah, 48–50.

renewal project. These include restoring the classical structure of *uṣūl al-fiqh* while reorganizing it within a renewed systematic framework; reassessing established positions on particular legal issues by introducing new perspectives and reaffirming the role of rational reasoning (*'aql*) in legal methodology; re-evaluating the application of *uṣūl al-fiqh* principles while maintaining fidelity to the broader juristic tradition; reconstructing the discipline in accordance with developments in its underlying legal causes (*'illah*); and formulating a model of renewal that remains consistent with the distinctive characteristics of *uṣūl al-fiqh* as understood within the various schools of legal thought.⁹ Although this study provides an important account of the dimensions of 'Ali Jum'ah's reform, these dimensions are primarily identified as individual elements of his renewal project. Less attention has been given to the conceptual relationship among them and to the methodological logic through which they collectively constitute a reconstruction of *uṣūl al-fiqh*. This raises a further question concerning the nature of 'Ali Jum'ah's renewal: whether it should be understood primarily as a restructuring of the discipline or as a broader transformation involving its substantive and epistemological foundations. This study addresses this issue by examining 'Ali Jum'ah's primary works and reconstructing the relationship among his reform proposals. It argues that his renewal operates on two interconnected levels: the restructuring of the organization and presentation of *uṣūl al-fiqh* and the renewal of selected substantive components, particularly through the reconfiguration of *maqāṣid al-sharī'ah*, the incorporation of *idrāk al-wāqī'*, and the reconsideration of Qur'anic naskh.

Research by Badrut Tamam examined the renewal of *uṣūl al-fiqh* in al-Būṭī's legal thought. His study argues that al-Būṭī's contribution to the renewal of *uṣūl al-fiqh* lies in his effort to anchor the theory of *maṣlaḥah* within established textual evidence, optimize the application of linguistic principles, and integrate concepts from *'ulūm al-Qur'ān* into Islamic legal theory.¹⁰ Meanwhile, Abdul Qādir bin Khalifah Mahāwāt investigated the renewal of *uṣūl al-fiqh* in Hasan al-Turabi's legal thought. His findings suggest that al-Turabi did not introduce a fundamentally new methodology for *uṣūl al-fiqh*; rather, he reformulated ideas that had already been advanced by earlier scholars of Islamic legal theory. The study further argues that al-Turabi's views on the Shari'ah in general and *uṣūl al-fiqh* in particular were significantly shaped by a socio-cultural environment in

⁹ Muhammad Zainuddin Sunarto, Tutik Hamidah, dan Abbas Arfan, "Pembaharuan Ushul Fiqh 'Ali Jum'ah Muhammad," *Hakam* 6, no. 1 (2022), <https://doi.org/10.33650/jhi.v6i1>.

¹⁰ Muhammad Badrut Tamam, "Pembaharuan Ushul Fiqh dalam Pemikiran al-Buti" (Tesis, Sekolah Pascasarjana UIN Syarif Hidayatullah, 2022).

which Islamic intellectual traditions were relatively weak.¹¹ In contrast to the studies by Badrut Tamam and Abdul Qādir bin Khalifah Mahāwāt, the present study focuses on the 'Ali Jum'ah's legal thought.

Several previous studies have examined 'Ali Jum'ah as a prominent Muslim intellectual, although they have generally focused on specific aspects of his scholarly contributions. For example, Ahmad Musabiq analyzes 'Ali Jum'ah's Islamic legal thought in relation to gender equality,¹² while Fajar examines his method of *ijtihād* in addressing contemporary financial transactions.¹³ Meanwhile, David Sugianto explores the application of the *maqāṣid al-sharī'ah* approach in 'Ali Jum'ah's legal thought.¹⁴

METHODS

This study employs a qualitative research methodology based on library research to examine the construction of the renewal of *uṣūl al-fiqh* in 'Ali Jum'ah's thought. Rather than treating the study merely as a descriptive account of his views, the analysis focuses on reconstructing the methodological relationship among his proposals for renewing the discipline.

The primary sources are 'Ali Jum'ah's works that directly address *uṣūl al-fiqh* and its renewal, particularly *Qaḍiyyat Tajdīd Uṣūl al-Fiqh*, *Tajdīd 'Ilm Uṣūl al-Fiqh: al-Wāqī' wa al-Muqtaraḥ*, *Tārīkh Uṣūl al-Fiqh*, and *Wa Qāla al-Imām*. Secondary sources include scholarly books, peer-reviewed articles, and other academic works relevant to the history, theory, and contemporary development of *uṣūl al-fiqh*. The analysis proceeds through a systematic reading of 'Ali Jum'ah's primary works to identify passages in which he proposes, justifies, criticizes, removes, adds, or reorganizes elements of *uṣūl al-fiqh*. These textual data are then classified according to the object of renewal, particularly whether they concern the structure and organization of the discipline or its substantive methodological components.

The classified data are subsequently examined in relation to the arguments underlying each proposal. The analysis considers why particular elements are retained, removed, reorganized, or introduced, and how these changes relate to *turāth*, textual

¹¹ Abd al-Qadir bin Khalifah Mahāwāt, *Tajdīd Uṣūl al-Fiqh 'Inda Duktūr Hasan al-Turabi 'Ardun wa Naqdun* (Aljazair: Sāmī, 2020).

¹² Ahmad Musabiq Habibie, *Pemikiran Hukum Islam 'Ali Jum'ah: Studi atas Wacana Kesetaraan Gender* (Tangerang Selatan: Pustakapedia, 2020).

¹³ Fajar, "Metode Ijtihad Ali Jum'ah dalam Masalah-Masalah Muamalat Maliyyah Muashirah" (Tesis, Program Pascasarjana Universitas Islam Sunan Kalijaga, 2019).

¹⁴ David Sugianto, "Pendekatan Maqāṣid Shari'ah dalam Pemikiran 'Ali Jum'ah," *Jurnal Al Ahkam* 11, no. 2 (2020).

interpretation, rational reasoning, *maqāṣid al-sharī'ah*, and the understanding of contemporary reality (*idrāk al-wāqī'*). The study then compares these proposals with the established structure and methodological principles of classical *uṣūl al-fiqh* to identify the continuity, modification, and innovation contained in 'Ali Jum'ah's project. Finally, the relationships among the identified elements are synthesized to reconstruct the overall architecture of his renewal. Through this procedure, the study moves beyond identifying isolated reform proposals and explains how they collectively constitute a methodological construction of renewed *uṣūl al-fiqh*. Data were collected and analyzed using the interactive model developed by Miles and Huberman (1984), which consists of four interrelated stages: data collection, data reduction, data display, and conclusion drawing.¹⁵

RESULTS AND DISCUSSION

1. 'Ali Jum'ah's Renewal of Uṣūl al-Fiqh: The Structural Framework (*al-Shakl*)

a. Eliminating Extraneous Elements Derived from Other Disciplines

The methodology of Islamic thought is fundamentally represented today in *uṣūl al-fiqh*, which, in turn, is represented in its general principles and axioms by the rational foundations and basic precepts of the Islamic mind. As an independent discipline, however, *uṣūl al-fiqh* was developed by the generations of the *tābi'ūn* and *tābi' al-tābi'īn*, following the era of the *Khulafā' al-Rāshidūn*. Consequently, al-Shāfi'ī's *al-Risālah* is widely regarded as the earliest systematic scholarly articulation of the methodology of Islamic thought in general, and of *uṣūl al-fiqh* in particular.¹⁶

The science of *uṣūl al-fiqh* constitutes an independent and autonomous discipline, it is founded upon several fundamental predications (*muqaddamāt*) that every scholar of Islamic law must necessarily recognize. These predications have been derived from several other disciplines. Some are derived from the science of Aristotelian logic, which the philosopher-theologian writers (*muttakallimūn*) had become accustomed to discussing in the introductions to their works. These discussions include *dalālah lafẓiyyah* and its classifications, the distinction between *taṣawwur* (conceptualization) and *taṣdīq* (assent), as well as the principles governing *taṣawwur*, such as definition (*ta'rīf*) and explanation (*sharḥ*), whether through *ḥadd* or *rasm*. They also encompass the principles of *taṣdīq*,

¹⁵ Charles M. Reigeluth, *Instructional Design Theories and Models: A New Paradigm of Instructional Theory Volume II* (New York: Routledge, 2009), 643.

¹⁶ Abdul Hamid Abu Sulayman, *Crisis in the Muslim Mind* (Herndon: The International Institute of Islamic Thought, 1993), 37.

including the theory of *burhān* (demonstrative proof) and its application in establishing the validity of a *mustadill*'s argument and refuting opposing claims.¹⁷

Other premises are derived from *'ilm al-kalām* (scholastic theology), including discussions of such questions as the nature of jurisdiction, in the sense of whether it is the Shari'ah itself or reason which decides what is right or wrong; or whether one can have knowledge of right and wrong before the Revelation; or whether rendering thanks to the Creator is a duty derived from the Shari'ah or from human reasoning. Some are general linguistic rules which the scholars of *uṣūl* developed through linguistic research and presented in a crystallized form, such as research dealing with languages and their origins, the classification of words into metaphorical and literal, discussions of etymology, synonymity, emphasis, generalization, specification, the meanings of grammatical particles and so on. Additional foundations are drawn from the sciences of the Qur'ān and ḥadīth, including the classification of *āḥād* and *mutawātir* reports, *qirā'āt shādhidhah* and their legal implications, the criteria of *jarḥ wa ta'dīl* in evaluating transmitters, the doctrines of *naskh* and *mansūkh*, and the critical examination of both the text (*matn*) and chain of transmission (*isnād*) of ḥadīth. Finally, the illustrative examples employed by *uṣūl* scholars to support their legal arguments are largely drawn from the branches of *fiqh* (*furū' al-fiqh*) and from detailed textual evidence (*al-adillah al-tafṣīliyyah*) derived from the Qur'ān and the Sunnah.¹⁸

Although the incorporation of these disciplines has made valuable contributions to *uṣūl al-fiqh*, particularly by enriching its methodological structure through the systematic organization of chapters, conceptual frameworks, and modes of legal reasoning, it has also produced significant drawbacks. Much of this material has led the discipline into highly theoretical discussions that bear little relevance to the actual process of *istinbāt* (legal derivation). This tendency is especially evident in the incorporation of *'ilm al-kalām*, which transformed *uṣūl al-fiqh* into a forum for theological disputation and sectarian polemics rather than preserving its primary function as a methodological instrument for interpreting the Qur'ān and the Sunnah and deriving legal rulings for newly emerging issues.¹⁹

One of the central aspects of 'Ali Jum'ah's project for the renewal of *uṣūl al-fiqh* is the removal of discussions that bear no direct relevance to the discipline itself. He argues that

¹⁷ Taha Jabir Al-Alwani, *Source Methodology in Islamic Jurisprudence* (London: The International Institute of Islamic Thought, 2003), 2.

¹⁸ Al-Alwani, 3.

¹⁹ Ahmad bin Abd al-Salām Al-Raisūni dkk., *Al-Tajdīd al-Uṣūlī: Naḥwa Ṣiyāghah Tajdīdīyah li 'Ilmi Uṣūl al-Fiqh* (Herndon: al-Ma'had al-'Alamī li al-Fikri al-Islāmī, 2014), 39.

a considerable amount of supplementary material, particularly from linguistics (*lughawīyyāt*), logic (*manṭiq*), and *'ilm al-kalām*, was incorporated merely as ancillary content or to complement the discipline's exposition. According to 'Ali Jum'ah, if *uṣūl al-fiqh* is purified of these non-essential elements and refocused on its primary function as the methodological framework for understanding, investigating, and deriving Islamic legal rulings from the Qur'ān and the Sunnah, it will become a more coherent, effective, and purpose-oriented discipline.²⁰

b. The Precise Formulation and Analysis of Definitions

Within the framework of the renewal of *uṣūl al-fiqh*, 'Ali Jum'ah maintains that every discussion of *uṣūl al-fiqh* issues should begin with the precise formulation of definitions. For him, presenting issues through the precise formulation of definitions is of fundamental importance, as definitions encapsulate the essential principles of a discipline, delineate the scope of its concepts, distinguish them from similar notions, and accurately convey the intended meaning to the reader or learner. Each definition should therefore be accompanied by a comprehensive explanation so that it serves as a reliable standard for understanding and enables readers to grasp the concept correctly. This process should also clarify the defining characteristics and limitations of each definition, followed by an examination of areas of agreement and disagreement among scholars, since every legal school formulates its definitions in accordance with its own theoretical understanding of the concept under discussion. Where different definitions refer to the same underlying concept, their semantic development should be explained. Any additions to or modifications of a definition should be understood as attempts to refine it and minimize potential objections. Finally, the evidence supporting each position should be presented, and in more advanced works, critically evaluated, before identifying the strongest opinion. This discussion should be expressed in clear and accessible language, enabling readers and students not only to understand and critically engage with the issues during study, but also to appreciate the nature of scholarly disagreement and develop the intellectual capacity for informed and independent judgment.²¹

c. Strengthening Understanding through Illustrative Examples and *Furū'*

'Ali Jum'ah emphasizes the importance of giving due attention to the use of illustrative examples and juristic cases (*furū'*) in the discussion of every issue of *uṣūl al-fiqh*. In his view, examples should not merely serve an explanatory function but should

²⁰ 'Ali Jum'ah, *Wa Qāla al-Imām* (Kairo: Al-Wābil al-Ṣayb, 2009), 88; Jum'ah, "Tajdīd 'Ilmi Uṣūl al-Fiqh al-Wāqī' wa al-Muqtarah," 41.

²¹ Jum'ah, "Tajdīd 'Ilmi Uṣūl al-Fiqh al-Wāqī' wa al-Muqtarah," 41–42.

also operate as an effective pedagogical tool for training both students and readers. Their number should be sufficiently extensive to ensure that the legal issue becomes firmly established in the learner's mind, enabling them to recognize the common features shared by different cases, distinguish between legally significant commonalities (*al-jawāmi' al-mu'aththirah*) and legally insignificant differences, and ultimately develop a deeper understanding of the underlying legal principles. Furthermore, 'Ali Jum'ah proposes that discussions should include critical analyses of cases that some scholars have mistakenly regarded as appropriate examples, even though they fail to qualify because of the presence of a legally significant distinction (*fāriq mu'aththir*) that has gone unnoticed. According to him, such discussions are extensively found in works such as *al-Ashbāh wa al-Nazā'ir*, *al-Furūq*, and *Takhrīj al-Furū' alā al-Uṣūl*. These works constitute valuable supplementary resources for the study of *uṣūl al-fiqh*, as they not only clarify its theoretical foundations but also cultivate the reader's intellectual aptitude (*malakah*) for sound understanding, distinguishing between analogous and non-analogous cases, and developing the capacity for *istinbāt* (legal reasoning).²²

d. Reorganizing the Presentation of *Uṣūl al-Fiqh* According to the *Mujtahid's* Reasoning Process

'Ali Jum'ah advocates a more systematic approach to the presentation of *uṣūl al-fiqh*. In his view, the structure of *uṣūl al-fiqh* should be organized according to the reasoning process of a *mujtahid*.²³ This approach is intended to provide a clear framework for understanding the successive stages of *ijtihād*, thereby enabling readers to comprehend more effectively how Islamic legal rulings are formulated. According to 'Ali Jum'ah, this renewed model of organizing *uṣūl al-fiqh* can be summarized into seven principal theories upon which the discipline is constructed: the theory of *hujjiyyah* (legal authority), the theory of *thubūt* (authenticity), the theory of *dalālah* (textual indication), the theory of *qaṭ'iyyah-ẓanniyyah* (certainty and probability), the theory of *ilhāq* (analogical extension), the theory of *istidlāl* (legal reasoning), and the theory of *al-iftā'* (legal opinion).²⁴ According to 'Ali Jum'ah, these theories constitute the intellectual framework that governs the reasoning of *uṣūl al-fiqh* scholars. A comprehensive understanding of these theories enables one to master the discipline of *uṣūl al-fiqh* in its entirety, thereby opening new avenues for its development while preserving its foundations in the classical Islamic intellectual tradition (*turāth*).²⁵

²² Jum'ah, 42.

²³ Jum'ah, 43.

²⁴ Jum'ah, *Tārīkh Uṣūl al-Fiqh*, 50.

²⁵ Jum'ah, 50.

e. Developing an Independent Introduction to *Uṣūl al-Fiqh*

'Ali Jum'ah proposes the development of an independent introductory section preceding the main body of *uṣūl al-fiqh*. This introduction should present the historical development of the discipline, the terminology employed within it, the various methods of its composition, and an overview of discussions concerning Islamic legal rulings (*al-aḥkām al-shar'iyyah*). It should also address the ten foundational principles (*al-mabādi' al-'asharah*) that provide the basic framework for understanding the discipline. At the same time, discussions derived from other fields, such as logic (*manṭiq*), theology (*kalām*), and linguistics, should be excluded from this introductory section. According to 'Ali Jum'ah, the introduction should function as a standalone study about *uṣūl al-fiqh*, rather than as part of the substantive discussion within the discipline itself.²⁶

f. Compiling an Appendix of Definitions, Foundational Principles, and Technical Terminology in *Uṣūl al-Fiqh*

'Ali Jum'ah proposes supplementing *uṣūl al-fiqh* with a comprehensive list of definitions, foundational legal principles, and related technical terminology. In his view, however, the renewal of *uṣūl al-fiqh* may also require the development of new scholarly disciplines capable of advancing and enriching the field. The generation of such disciplines constitutes an integral component of the renewal project, as they provide the broader intellectual foundation for *uṣūl al-fiqh* while simultaneously serving as its natural extension. Moreover, these supporting disciplines help prevent the discipline from falling into stagnation shortly after its reconstruction. According to 'Ali Jum'ah, exclusive reliance on a single methodological framework risks reducing the dynamism of scholarly inquiry. Although he acknowledges Paul Feyerabend's critique of methodological monism and his rejection of strict adherence to any single method, 'Ali Jum'ah does not embrace this position uncritically, considering it an expression of the radical relativism characteristic of certain Western epistemological paradigms. Instead, he argues that the vitality of *uṣūl al-fiqh* can be sustained through the continual generation of related disciplines that constitute its broader intellectual environment.²⁷

2. 'Ali Jum'ah's Renewal of *Uṣūl al-Fiqh*: The Substantive Dimension (*al-Maḍmūn*)

In his effort to renew *uṣūl al-fiqh* at the substantive dimension, 'Ali Jum'ah advances three major proposals aimed at reforming the discipline from within. These proposals are not merely methodological additions; rather, they constitute conceptual interventions directed at the very core of *uṣūl al-fiqh*, namely the processes through which Islamic legal

²⁶ Jum'ah, "Tajdid 'Ilmi Uṣūl al-Fiqh al-Wāqī' wa al-Muqtarah," 43.

²⁷ Jum'ah, 44.

rulings are formulated, interpreted, and applied in response to changing social realities. The first proposal concerns the reconfiguration of the *al-ḍarūriyyāt al-khams* (the five essential objectives of the Sharī'ah) within the framework of *maqāṣid al-sharī'ah*. 'Ali Jum'ah argues that the classical hierarchical ordering of these five essential values should be reconsidered to better reflect contemporary social needs and emerging challenges. In his view, *maqāṣid al-sharī'ah* should not be understood as a rigid and self-contained hierarchy, but rather as a dynamic and functional system of values capable of responding to changing contexts. The second proposal is the incorporation of a dedicated chapter on understanding reality (*idrāk al-wāqī'*) into *uṣūl al-fiqh*. This addition is intended to equip jurists with a systematic methodological framework for examining contemporary social realities before undertaking the process of legal reasoning. The third proposal involves a conceptual revision of the theory of naskh (abrogation) in *uṣūl al-fiqh*. According to 'Ali Jum'ah, the classical understanding of naskh raises several epistemological concerns that warrant critical re-examination, particularly about the reliability of the transmitted reports upon which the theory has traditionally been based and its consistency with the principle of the preservation of the Qur'an.

a. Reconfiguring *al-Ḍarūriyyāt al-Khamsah* in *Maqāṣid al-Sharī'ah*

In light of the profound transformations and developments taking place in today's world, across the domains of objects, individuals, events, and ideas, the need for a sound methodological framework has become increasingly urgent. As a religion that places great emphasis on knowledge, Islam regards methodology as one of the fundamental pillars upon which scholarly inquiry is built. Within this context, one of the most significant methodological models that Muslims can advance and rely upon in addressing the complexities of the contemporary world is the *maqāṣid al-sharī'ah* framework. Among the most fundamental issues associated with this framework is the question of the hierarchical ordering of the objectives of the Sharī'ah (*tartīb al-maqāṣid*).²⁸

According to Akhmad Sulaiman, contemporary scholarship on *maqāṣid al-sharī'ah* exhibits three principal approaches toward al-Ghazālī's classical formulation of the five essential objectives (*al-ḍarūriyyāt al-khams*).²⁹ The first, which he characterizes as the

²⁸ 'Ali Jum'ah, *Ru'yah Fiqhiyyah Ḥaḍāriyah li Tartīb al-Maqāṣid al-Shar'iyyah* (Giza: Dar al-Nahdah Misr, 2021), 3.

²⁹ The intellectual genealogy of *al-ḍarūriyyāt al-khams* can be traced back to the philosopher al-ʿĀmirī, who articulated five foundational objectives underlying the Islamic penal system: (1) the protection of life through *qisās* (retaliation) and *diyyah* (blood money); (2) the protection of property through penalties such as amputation and, in certain cases, crucifixion for aggravated theft or brigandage; (3) the protection of chastity through the prescribed punishments for unlawful sexual intercourse (*zinā*), namely flogging and stoning; (4) the protection of honor through the punishment for false accusations of unchastity (*qadhif*), including flogging and the declaration of the offender's unreliability (*fisq*); and (5) the protection of religion

Ancient-Tenacious Maqāṣidiyyin, adheres strictly to the traditional formulation without introducing any substantive modifications. This tendency is represented by scholars such as Abdul Wahab Khalaf (d. 1956), Muhammad Sa'īd Ramaḍān al-Būṭī (d. 2013), Wahbah al-Zuhailī (d. 2015), and Bā Bakr al-Hasan. The second, referred to as the *Semi-Ancient-Tenacious Maqāṣidiyyin*, retains the classical framework of the five essential objectives while introducing limited conceptual developments. This category includes scholars such as Ahmad al-Raysūnī, 'Ali Jum'ah, and Jasser Auda. The third, identified as the *Modern-Progressive Maqāṣidiyyin*, proposes a more innovative reconstruction of *maqāṣid al-sharī'ah*. Rather than merely preserving or modestly refining the classical model, these scholars seek to reconceptualize *maqāṣid* in response to contemporary intellectual and social challenges. This approach is represented by figures such as Rashīd Riḍā (d. 1935), Ṭāhā Jābir al-'Alwānī (d. 2016), Yūsuf al-Qaraḍāwī (d. 2022), and Jamāluddīn 'Aṭīyyah (d. 2017).³⁰

The primary motivation behind contemporary efforts to reconstruct the framework of *maqāṣid al-sharī'ah*, according to Ahmad al-Raysūnī, lies in the need to enhance its capacity to address the unprecedented challenges of the modern world, challenges that were not encountered by al-Ghazālī and other classical scholars. These include issues such as environmental sustainability, economic development, the unity of the Muslim community, freedom, justice, human dignity, and other contemporary concerns. Another major criticism is that al-Ghazālī's formulation of *maqāṣid* is primarily oriented toward the protection of individual interests, while giving insufficient attention to the broader interests of the family, society, and humanity as a whole. On this basis, al-Raysūnī argues that the classical construction of *maqāṣid* requires reconsideration and further development to remain responsive to contemporary realities.³¹

'Ali Jum'ah's revitalization of *maqāṣid al-sharī'ah* is reflected in his proposal to reorganize the hierarchical ordering of the five essential objectives (*tartīb al-maqāṣid al-ḍarūriyyāt al-khams*). According to 'Ali Jum'ah, engagement with the classical Islamic

through the death penalty for apostasy. Al-Juwaynī, the teacher of al-Ghazālī, subsequently elaborated these principles by explaining that life is safeguarded through *qisās*, chastity through the prescribed *ḥudūd* punishments, and property through the amputation penalty for theft. Al-Ghazālī's principal contribution was the recognition of the preservation of intellect (*ḥifẓ al-'aql*) as an independent objective, even though the intellect had previously been regarded as an aspect of the human person or soul. See: Ahmad al-Raisuni, *Muḥādarāt fī Maqāṣid al-Sharī'ah* (Kairo: Dar Alkalema, 2014), 158–61.

³⁰ Akhmad Sulaiman, *Ijtihād Maqāṣidi dan Politik Pengetahuan: Pergumulan Diskursus Keagamaan Revolusi Mesir Yusuf Al-Qaradawi Dan 'Ali Jum'ah* (Disertasi: Pascasarjana UIN Sunan Kalijaga Yogyakarta, 2022), 57, <http://digilib.uin-suka.ac.id/id/eprint/53671>.

³¹ Jasser Auda, *Maqasid al-Shariah as Philosophy of Islamic Law: A Systems Approach* (London: The International Institute of Islamic Thought, 2007), 4.

intellectual heritage should not be confined to the specific legal problems addressed by earlier scholars. Rather, the primary objective should be to adopt, comprehend, and critically engage with their methodological framework. This is because the issues confronted by the early generations (*salaf*) were closely shaped by the historical and social realities of their own time. Consequently, if their methodology is to remain relevant and capable of addressing contemporary realities, it must first be understood in depth. Such an understanding also requires the willingness to move beyond the particular issues of the past and to adapt their methodological legacy to the challenges and needs of the contemporary world.³²

The classical hierarchy of the five essential objectives was formulated in accordance with the needs and circumstances of its own time, addressing both the pressing issues of that period and the challenges that were reasonably anticipated. However, in light of the increasing complexity of human civilization, particularly since the beginning of the twentieth century, there is a need to reconsider and reorganize the hierarchy of *maqāṣid* so that it remains relevant and operational in contemporary contexts. Such a reconfiguration does not constitute a departure from the intellectual legacy of the classical scholars. Rather, it represents an effort to extend and develop their insights through a more contextual and responsive approach.³³

This reconsideration is significant in light of the integral relationship between *maqāṣid al-sharī'ah* and *uṣūl al-fiqh*. The discussions of *maqāṣid* represent the substantive spirit of *uṣūl al-fiqh* and constitute an inseparable part of the discipline. Their function is not limited to identifying the purposes underlying legal rulings; *maqāṣid* also provides methodological guidance for *ijtihād*, both in its theoretical and contextual dimensions, while maintaining an organic relationship with *uṣūl al-fiqh*.³⁴ In this context, the hierarchy of *maqāṣid* cannot be understood merely as a classificatory arrangement. If *maqāṣid* performs a methodological function within *uṣūl al-fiqh*, the way in which its essential objectives are internally organized and assigned relative priority also forms part of the framework through which those objectives are brought into legal reasoning. Reconsidering their hierarchy, therefore, involves not simply changing their sequence,

³² Jum'ah, *Ru'yah Fiqhiyyah Haḍāriyyah li Tartīb al-Maqāṣid al-Shar'iyyah*, 31.

³³ Jum'ah, 32.

³⁴ Rezart Beka, "Maqāṣid and the Renewal of Islamic Legal Theory in 'Abdullah Bin Bayyah's Discourse," *American Journal of Islam and Society* 38, no. 3-4 (April 2022): 103-4, <https://doi.org/10.35632/ajis.v38i3-4.2987>; Ahmad Muhammad Sa'dul Kholqi, "Hubungan Antara Maqashid Syari'ah dan Ushul Fiqih," *MIYAH: Jurnal Studi Islam* 19, no. 02 (2023): 403, <https://doi.org/https://doi.org/10.33754/miyah.v19i02.806>.

but revisiting an inherited methodological configuration to reconsider how the objectives of the Sharī'ah are related, prioritized, and operationalized in *ijtihād*.

In 'Ali Jum'ah's proposed reconstruction of the hierarchy of *maqāṣid*, the preservation of life (*ḥifẓ al-naḥs*) occupies the highest position, followed by the preservation of intellect (*ḥifẓ al-'aql*), religion (*ḥifẓ al-dīn*), human dignity (*karāmat al-insān*), which in classical terminology is expressed as the preservation of honor (*ḥifẓ al-'ird*) or lineage (*ḥifẓ al-nasl*), and finally the protection of ownership (*ḥifẓ al-milk*), corresponding to what classical jurists referred to as the preservation of wealth (*ḥifẓ al-māl*). In support of this reordering, 'Ali Jum'ah advances several arguments.

Based on his examination of both classical and contemporary scholarship on the hierarchy of the five essential *maqāṣid* (*al-maqāṣid al-ḍarūriyyah*), 'Ali Jum'ah concludes that no scholarly consensus has ever existed regarding a fixed ordering of these objectives. This lack of consensus stems from differing perspectives on how priorities should be determined. Some scholars accord precedence to the preservation of religion over worldly interests, arguing that the former leads to eternal felicity, whereas the latter secures only temporary well-being. Others maintain that necessities related to worldly affairs should take precedence over those of religion, because human rights are often conditioned by human need and limitation, whereas the rights of God are founded upon divine mercy, ease, and forbearance.³⁵ Furthermore, some scholars attached little significance to establishing a hierarchical order among the *maqāṣid*, while others rejected the very notion of ranking them altogether.³⁶

Another factor contributing to the absence of scholarly consensus is the divergent understanding of the term *al-dīn* (religion). The term may be interpreted either as Islam in its entirety or, more narrowly, as the sphere of purely ritual acts of worship (*al-'ibādāt al-mahḍah*). For those who understand *al-dīn* as encompassing Islam as a comprehensive way of life, the preservation of religion (*ḥifẓ al-dīn*) assumes precedence over all other *maqāṣid*, thereby occupying the highest position within the hierarchy of *maqāṣid al-sharī'ah*. By contrast, those who interpret *al-dīn* as referring exclusively to ritual worship may accord priority to other essential objectives, depending on the context and the nature of the interests involved.³⁷ Within this context, 'Ali Jum'ah maintains that *al-dīn* should be understood as acts that require intention (*niyyah*), namely acts of pure worship (*al-'ibādāt al-mahḍah*), even when they are performed within the sphere of *mu'āmalāt*, rather

³⁵ Ali Ibn Abd al-Kafi Al-Subkī dan Tāj al-Dīn 'Abd al-Wahhāb Ibn 'Alī al-Subkī, *Al-Ibhāj fī Sharḥ al-Minhāj 'Ala Minhāj al-Wusūl ila 'Ilmi al-Uṣūl*, vol. 3 (Beirut: Dar al-Kutub al-'Ilmiyah, 1984), 241.

³⁶ Jum'ah, *Ru'yah Fiqhiyyah Ḥaḍāriyyah li Tartīb al-Maqāṣid al-Shar'iyyah*, 25.

³⁷ Jum'ah, 26.

than as referring to Islam in its entirety. Accordingly, Islam is conceived in a broader sense as the divine discourse (*khiṭāb Allāh*) that guides human beings, through their own volition, toward well-being in this world and the Hereafter, as defined by classical Muslim jurists.³⁸

The hierarchical ordering of the *al-maqāṣid al-ḍarūriyyah* has varied considerably across the formulations of classical Muslim scholars. Based on his analysis of the relevant literature, 'Ali Jum'ah argues that the early scholarly endeavor was primarily concerned with the process of *istiqrā'* (inductive examination) and the identification of the essential *maqāṣid*, without assigning them a fixed hierarchical order. Only at a later stage were these objectives systematically organized into the five well-known essential *maqāṣid*. This development is evident in the writings of classical jurists. For example, Imam al-Rāzī (d. 606 AH/1210 CE) discussed these objectives without presenting them in any particular order. By contrast, al-Āmidī (d. 631 AH/1233 CE), Ibn Ḥājib (d. 646 AH/1249 CE), and Ibn Amīr al-Ḥajj (d. 879 AH/1474 CE) accorded priority to the four worldly interests over the interest of religion. Meanwhile, al-Zarkashī (d. 794 AH/1392 CE) placed the preservation of religion fourth, after the preservation of life, wealth, and lineage, while assigning the preservation of intellect (*ḥifẓ al-'aql*) the final position within his hierarchy of *maqāṣid*. In contrast, Ibn al-Najjār (d. 972 AH/1565 CE) adopted what later became the widely accepted ordering, placing the preservation of religion at the head of the hierarchy.³⁹

'Ali Jum'ah maintains that although this revised hierarchy differs from the arrangement commonly found in the classical tradition, it remains fully consistent with the principles of the Shari'ah and does not contradict the scriptural evidence (*adilla shar'iyyah*). Rather than representing a departure from the classical framework, this reordering constitutes a contextual approach aimed at addressing the conditions and challenges of the modern Muslim community. According to 'Ali Jum'ah, Islam as the divine discourse (*khiṭāb Allāh*) addressed to humankind consists of divine commands and prohibitions whose ultimate purpose is to guide human beings toward preserving their lives, safeguarding their intellect, and maintaining their relationship with God. These objectives serve to realize the fundamental purposes of human existence, namely the preservation of life and intellect, which are actualized through *'ibādah* (worship). At the same time, human beings are commanded to preserve their lineage, protect their rights, and cultivate the earth. Through this integration of *'ibādah* (worship) and *'imārah* (the

³⁸ 'Ali Jum'ah, *Al-Madkhal* (Kairo: Ma'had al-'Alami li Fikr al-Islami, 1996), 126; Jum'ah, *Ru'yah Fiqhiyyah Ḥadāriyah li Tartib al-Maqāṣid al-Shar'iyyah*, 32.

³⁹ Jum'ah, *Ru'yah Fiqhiyyah Ḥadāriyah li Tartib al-Maqāṣid al-Shar'iyyah*, 26–30.

cultivation and flourishing of the earth), the comprehensive objectives of the Sharī'ah are fulfilled. In this sense, *'imārah* grounded in *'ibādah* constitutes the foundation not only for the flourishing of worldly life but also for success in the Hereafter.⁴⁰

Furthermore, 'Ali Jum'ah argues that this revised hierarchy is more coherent and rests upon a more carefully reasoned rationale. It begins with the preservation of life (*ḥifẓ al-naḥs*), which serves as the foundation of all human action. This is followed by the preservation of intellect (*ḥifẓ al-'aql*), the faculty that enables human beings to assume legal and moral responsibility (*taklīf*) as *mukallaf*. The next priority is the preservation of religion (*ḥifẓ al-dīn*), which provides the essential basis for acts of worship (*'ibādah*) and for sustaining the moral order of human life. Once the preservation of life, intellect, and religion has been secured, attention turns to the preservation of lineage (*ḥifẓ al-nasl*), understood more broadly as encompassing the protection of human dignity (*karāmah al-insān*), honor (*ḥifẓ al-'ird*), and fundamental human rights. Finally, the preservation of property (*ḥifẓ al-milk*), or what classical jurists referred to as the preservation of wealth (*ḥifẓ al-māl*), occupies the final position. According to 'Ali Jum'ah, property constitutes an indispensable element in the cultivation and flourishing of civilization, as its proper distribution and utilization provide one of the principal foundations for sustaining human life.⁴¹

According to 'Ali Jum'ah, this reconfiguration of the hierarchy of *maqāṣid* carries significant implications for the relationship between Muslims and others, both within Muslim societies and beyond them. First, relations between Muslims and non-Muslims within the same state should be grounded in the protection of fundamental human rights, whereas relations with non-Muslim communities beyond the state's borders should be guided primarily by *da'wah* rather than warfare. This reflects his conviction that Islam is more than a religion in the narrow sense; it is a comprehensive civilizational framework that promotes the holistic development of humanity. Second, Islam embodies both religion and civilization. Its universal character provides the foundation for an inclusive social order that respects religious and cultural diversity without compromising its fundamental values. Within this framework, Islam's relationship with humanity may be understood on two levels: (1) a commitment to the teachings of Islam among those who embrace the faith, and (2) a relationship of respect and peaceful coexistence with non-Muslims who do not exhibit hostility toward Islam. Through this reordering of *maqāṣid*, 'Ali Jum'ah seeks to reinforce Islam's capacity to contribute to the development of a global

⁴⁰ Jum'ah, *Al-Madkhal*, 127; Jum'ah, *Ru'yah Fiqhiyyah Ḥadāriyah li Tartīb al-Maqāṣid al-Shar'iyyah*, 33.

⁴¹ Jum'ah, *Ru'yah Fiqhiyyah Ḥadāriyah li Tartīb al-Maqāṣid al-Shar'iyyah*, 34.

civilization that harmonizes the normative values of revelation with the realities of contemporary human life.⁴²

b. Incorporating the Mechanism of Understanding Reality (*Idrāk al-Wāqī* ') into *Uṣūl al-Fiqh*

Al-Wāqī ' (reality) refers to everything that is perceived by human beings through their normal sensory faculties. In this sense, the perception of reality is fundamentally the same for the Prophet Adam and for modern human beings. However, the true nature of reality is understood differently across historical periods. Such understanding depends on the body of knowledge available to human beings and on the discoveries they have made, through which they gradually attain a deeper comprehension of reality. By way of illustration, people may perceive the sun as moving across the sky, whereas in reality it is the Earth that rotates while the sun appears relatively stationary from the observer's perspective.⁴³

Understanding reality (*idrāk al-wāqī* ') constitutes one of the foundational elements of the epistemological framework that characterizes the Islamic intellectual tradition. This framework encompasses an understanding of four interrelated dimensions of reality that underpin the process of legal reasoning: the world of objects ('*ālam al-ashyā* '), the world of persons ('*ālam al-ashkhāṣ* '), the world of events ('*ālam al-aḥdāth* '), and the world of ideas ('*ālam al-aḥkām* '). These dimensions are further integrated by an overarching dimension, namely the world of systems ('*ālam al-nuṣūm* '), which connects and gives coherence to them. A comprehensive understanding of these dimensions serves as a bridge between the revealed texts and their application within lived reality. It enables the Shari'ah texts to remain relevant across different times and places by taking into account their objectives and underlying purposes, rather than confining interpretation to the literal wording of the texts alone.⁴⁴

Accordingly, the revealed legal texts (*al-nuṣūṣ al-shar'iyyah*) in their broadest sense should relate directly to reality as it is commonly perceived by people. Their relationship to the ultimate nature of things (*ḥaqīqat al-shay* '), by contrast, is of secondary importance. From this perspective, the apparent tension between science and religion can be reconciled by recognizing that the historical conflict arose from contradictions between scriptural texts that had undergone textual distortion in the Western religious tradition and empirical facts established through observation and experimentation.⁴⁵

⁴² Jum'ah, 34–42; Jum'ah, *Al-Madkhal*, 127–29.

⁴³ Jum'ah, *Tārīkh Uṣūl al-Fiqh*, 133.

⁴⁴ 'Ali Jum'ah, *Mukawwināt al-'Aql al-Muslim* (Kairo: Al-Wābil al-Ṣayb, 2017), 191.

⁴⁵ Jum'ah, *Tārīkh Uṣūl al-Fiqh*, 133.

Within his project of renewal of *uṣūl al-fiqh*, 'Ali Jum'ah proposes the incorporation of a new chapter devoted to the methodology of understanding and analyzing reality (*idrāk al-wāqī*). He argues that this addition is necessary because classical *uṣūl al-fiqh* did not systematically address this dimension or develop a coherent set of methodological principles for engaging with reality.⁴⁶ The need for such an addition has become increasingly urgent in light of the profound transformations that characterize the contemporary world, encompassing changes in time, place, social conditions, and human society. Consequently, these transformations require careful study through new analytical tools and the development of an appropriate methodology capable of engaging with an evolving reality. The emergence of the social sciences and humanities as independent disciplines, distinct from philosophy, illustrates how changing realities necessitate the continual refinement of analytical frameworks. Accordingly, the methodological tools inherited from earlier periods are often insufficient to comprehend and analyze the complexity of contemporary reality with the degree of accuracy that present circumstances demand.⁴⁷

According to 'Ali Jum'ah, *idrāk al-wāqī* (understanding reality) is an indispensable component of the process of *iftā'* (issuing legal opinions). Anyone who undertakes the responsibility of issuing a legal ruling must possess a range of intellectual and methodological competencies to ensure that such rulings are both sound and appropriate. Broadly speaking, these competencies comprise three essential elements. First is the ability to understand the revealed texts (*idrāk al-nuṣūṣ*). Second is a proper understanding of reality (*idrāk al-wāqī*). Third is the capacity to harmonize the immutable guidance of the revealed texts with the ever-changing circumstances of lived reality.⁴⁸

Reality has undergone a profound transformation, whereas the formulation of a *fatwā* depends upon a proper understanding of both the revealed texts and the realities to which they are applied, as well as the ability to relate the two coherently. Consequently, *uṣūl al-fiqh*, as the discipline that defines the qualifications and methodological competencies of a *mujtahid*, must incorporate the intellectual tools required to understand emerging realities. This, according to 'Ali Jum'ah, is both an academic necessity and a practical imperative. Such methodological instruments, however, are largely absent from the inherited tradition of *uṣūl al-fiqh*, which developed in a historical context where social

⁴⁶ Jum'ah, "Tajdid 'Ilmi Uṣūl al-Fiqh al-Wāqī' wa al-Muqtarah," 44; 'Ali Jum'ah, "Al-Thābit wa al-Mutaghayyar fī al-Sharī'ah al-Islāmiyyah," *Al-Manār al-Jadīd* 7 (1999): 55.

⁴⁷ 'Ali Jum'ah, "Al-Taghyīr: al-Falsafah wa al-Manāhij," *Majallah al-Muslim al-Mu'āṣirah* 88 (1998): 36, <https://almuslimalmuaser.org/1998/05/07/التغيير-الفلسفة-والمنهج/أبحاث/>.

⁴⁸ Jum'ah, *Tārīkh Uṣūl al-Fiqh*, 194–201.

reality was relatively stable. As Western societies underwent profound transformations, including changes in patterns of everyday life, the social sciences and humanities emerged as disciplines designed to interpret and analyze those new realities. Yet these disciplines evolved within epistemological paradigms that differ fundamentally from the epistemological framework of Islam. Accordingly, 'Ali Jum'ah argues that the objective is not merely to adopt these disciplines, but to develop an Islamic epistemological paradigm capable of guiding and reorienting the social sciences and humanities in addressing contemporary issues. Such a paradigm would enable the development of social sciences grounded in Islamic epistemology, thereby providing the *uṣūlī* with an essential methodological instrument for understanding reality. In this way, the social sciences become not merely auxiliary disciplines, but indispensable components of a comprehensive and systematic engagement with contemporary reality.⁴⁹

According to 'Ali Jum'ah, contemporary *uṣūl al-fiqh* remains largely confined to the process of deriving legal rulings (*istinbāt*) from the revealed texts. Although it serves as a highly effective methodology for textual legal reasoning, it does not provide the conceptual or methodological tools necessary to understand reality, nor does it offer an adequate framework for relating the legal rulings it produces to their practical application in lived contexts. Both of these dimensions require specialized analytical tools, many of which fall within the domain of the social sciences and humanities.

Nevertheless, 'Ali Jum'ah argues that the proposed framework for understanding reality must be grounded in an Islamic epistemological framework. In his view, the modern social sciences and humanities emerged within a philosophical tradition shaped by materialist and, in many cases, secular assumptions. Consequently, their methodologies and epistemological foundations cannot be entirely detached from the intellectual paradigms in which they originated. Although Islam and Western intellectual traditions may converge on certain universal values, such as justice and security, this convergence does not necessarily extend to the level of their practical application or underlying epistemological assumptions. For this reason, 'Ali Jum'ah advocates the Islamization of knowledge as an alternative intellectual project. Its objective is to construct an Islamic epistemological model and establish Islamic methodological principles as the foundation for the development of the various branches of knowledge.⁵⁰

Within this framework, the Islamization of knowledge is expected to foster the development of the social sciences and humanities as disciplines that serve

⁴⁹ Jum'ah, "Tajdid 'Ilmi Uṣūl al-Fiqh al-Wāqī' wa al-Muqtarah," 35.

⁵⁰ Jum'ah, "Al-Taghyir: al-Falsafah wa al-Manāhij," 55.

fundamentally as instruments for understanding reality. The insights generated by these disciplines can make a significant contribution to *uṣūl al-fiqh*, particularly through the proposed chapter on *idrāk al-wāqi'*. In this way, *uṣūl al-fiqh* would be enriched with methodological principles and analytical guidelines that enable the *uṣūlī* to engage with reality comprehensively and systematically. Accordingly, the relevance of *uṣūl al-fiqh* extends beyond interpreting the revealed texts in light of existing realities. It also encompasses the capacity to shape social reality in ways that facilitate the meaningful implementation of the Shari'ah. This approach seeks to establish a harmonious relationship between the revealed texts and lived reality, thereby enhancing the capacity of *uṣūl al-fiqh* to respond effectively to the challenges of the modern world.⁵¹

c. Naskh Al-Qur'an

The doctrine of *naskh* in *uṣūl al-fiqh* constitutes one of the most critical and intellectually complex subjects within Islamic legal theory, requiring rigorous scholarly examination and careful methodological analysis. Moreover, a thorough understanding of *naskh* and *mansūkh* occupies a central position in the study of *uṣūl al-fiqh*, as it is regarded as one of the essential qualifications of a *mujtahid*.⁵² In addition, *naskh* functions as one of the principal methodological approaches for resolving apparent conflicts between the revealed legal texts. It does so by establishing that a later revelation supersedes the legal ruling contained in an earlier one. Mastery of this doctrine is therefore indispensable for enabling the *mujtahid* to derive legal rulings accurately from the revealed sources.⁵³

According to the definitions of *naskh* developed by *uṣūlī* scholars, the scope of abrogation encompasses two principal objects: the legal ruling (*ḥukm*) and the Qur'anic recitation or text (*tilāwah*). The application of *naskh* to these two objects may occur independently, with either the legal ruling or the recitation being abrogated while the other remains intact, although in certain instances, both may be abrogated simultaneously. Accordingly, classical scholars identified three principal categories of *naskh* in the Qur'an. The first is the abrogation of the legal ruling while the Qur'anic recitation remains preserved (*naskh al-ḥukm dūna al-tilāwah*). The second is the abrogation of the recitation while the legal ruling continues to remain operative (*naskh al-tilāwah dūna al-ḥukm*). The third is the simultaneous abrogation of both the recitation and the legal ruling (*naskh al-tilāwah wa al-ḥukm*).⁵⁴

⁵¹ Jamīlah Būkhātīm, *Al-Tajdīd fī Uṣūl al-Fiqh* (Giza: Dar al-Fārūq, 2010), 381.

⁵² 'Ali Jum'ah, *Al-Naskh 'Inda al-Uṣūliyyin* (Giza: Nahdet Misr, 2005), 3.

⁵³ Wahbah Al-Zuhaili, *Uṣūl al-Fiqh al-Islāmi* (Damaskus: Dar al-Fikr, 1982), 2:931.

⁵⁴ Jum'ah, *Wa Qāla al-Imām*, 77-78.

Nevertheless, according to 'Ali Jum'ah, the concept of *naskh al-tilāwah* remains a matter of scholarly debate. The doctrine is primarily based on a number of reports transmitted in authoritative ḥadīth collections, including *Ṣaḥīḥ al-Bukhārī*, *Ṣaḥīḥ Muslim*, and other widely recognized compilations. However, several scholars, among them Abdullah ibn al-Ṣiddīq al-Ghumārī, have rejected this view. Al-Ghumārī argues that the Qur'an is divinely preserved beyond the limitations of time and space, and that its preservation rests with God rather than with human agency. On this basis, he raises fundamental questions regarding the validity of the doctrine of *naskh al-tilāwah*.⁵⁵ Furthermore, al-Ghumārī offers a critical assessment of the reports upon which this doctrine is founded, arguing that each of their chains of transmission (*isnād*) contains weaknesses that prevent them from serving as conclusive evidence. He therefore concludes that every verse of the Qur'an, whether counted as 6,236 according to the transmission of Ḥafṣ or approximately 6,000 according to the transmission of Ḥamzah al-Zayyāt, is *muḥkam*, having undergone neither alteration nor uncertainty. As such, all Qur'anic verses remain valid sources of legal guidance and divine instruction.⁵⁶

In his survey of the scholarly tradition, 'Ali Jum'ah notes that several scholars have expressed views consistent with this position. Among them is Abū Muslim al-Aṣfahānī, whose opinion is cited by al-Rāzī in his *Tafsīr*. Abū Muslim rejects the doctrine of *naskh* in its conventional formulation and interprets the Qur'anic verse, Q. 2:106, as referring to abrogation between successive divine laws (*sharā'ī*) rather than within a single revealed law. Thus, the Sharī'ah of Prophet Jesus is understood to have superseded certain rulings of the Sharī'ah of Prophet Moses, while the Sharī'ah of Prophet Muḥammad superseded aspects of the preceding revelations. Accordingly, the verse is interpreted as addressing inter-legislative abrogation rather than abrogation within the same Sharī'ah. On this basis, these scholars maintain that neither the recitation (*tilāwah*) nor the legal rulings (*aḥkām*) of the Qur'an are subject to abrogation.⁵⁷

Concerning the Qur'anic verses alleged to have been abrogated, 'Ali Jum'ah refers to the study of Muṣṭafā Zayd, who concludes that the number of such verses does not exceed six. Even with respect to these six verses, however, numerous scholars have maintained that they are not subject to abrogation. Similarly, 'Abd al-Muṭal al-Jabrī argues that for every verse claimed to have been abrogated, there has always been at least one scholar who rejected that claim. Likewise, works such as al-Suyūṭī's *al-Nāsikh wa al-*

⁵⁵ Abdullah al-Siddiq Al-Ghumari, *Dhawq al-Ḥalāwah fī Imtinā' Naskh al-Tilāwah* (Kairo: Maktabah al-Qāhirah, 2013), 12; Jum'ah, *Wa Qāla al-Imām*, 78.

⁵⁶ Jum'ah, *Wa Qāla al-Imām*, 80–81.

⁵⁷ Jum'ah, 78–79.

Mansūkh and Ibn Salām's treatise of the same title demonstrate that no Qur'anic verse has ever been the subject of unanimous agreement (*ijmā'*) regarding its abrogation. Rather, the attribution of *naskh* in every case rests on individual scholarly judgments rather than definitive consensus (*ijmā' qat'i*). Consequently, one who maintains that the Qur'an contains no instances of *naskh* cannot be regarded as contradicting scholarly consensus.⁵⁸

Furthermore, 'Ali Jum'ah argues that accepting the doctrines of *naskh al-tilāwah* and, by extension, *naskh al-ḥukm* gives rise to two significant theoretical concerns. First, it creates room for allegations of *tahrīf* (textual corruption) of the Qur'an. According to him, such claims have been exploited by Christian missionaries to draw parallels between the Qur'an and earlier scriptures, such as the Torah and the Gospel, which are believed to have undergone textual alteration. Ibn Ḥazm had already addressed a similar line of criticism in his *al-Faṣl*, where he refuted Christian polemics that relied on statements attributed to certain Shī'ī scholars in an attempt to argue that the Qur'an had likewise been altered.

Second, the acceptance of such forms of *naskh* undermines the universal and enduring applicability (*iṭlāqīyyah*) of the Qur'an. The Qur'an is intended to remain relevant and applicable across all times and places, conveying its divine message to humanity until the Day of Judgment. This universal applicability constitutes one of the essential manifestations of the Qur'an's miraculous nature as the final revealed scripture. Accordingly, every Qur'anic verse should be understood as embodying legal principles that are sufficiently comprehensive and adaptable to reflect the distinctive character of *khātamiyyah al-risālah al-muḥammadiyyah*, a point that will be discussed in greater detail below.⁵⁹

'Ali Jum'ah further notes that al-Zarkashī in *al-Burhān* and al-Suyūṭī in *al-Itqān* proposed an alternative interpretation of the Qur'anic expression "*aw nunsihā*" (Q. 2:106). They interpret the phrase according to the *mutawātir* reading "*aw nansa'hā*", which conveys the meaning of "to defer" or "to postpone." In Arabic, the term "*al-nasī*" denotes postponement. Based on this interpretation, many Qur'anic verses traditionally regarded as abrogated are, in fact, not subject to *naskh*. Rather, their application is contingent upon the fulfillment of specific conditions. When those conditions are present, the legal ruling remains operative; when they are absent, its implementation is deferred until the appropriate circumstances arise. As an illustration, during periods in which the Muslim community was politically and militarily vulnerable, such as during its residence in

⁵⁸ Jum'ah, 79.

⁵⁹ Jum'ah, *Al-Naskh 'Inda al-Uṣūliyyin*, 72.

Abyssinia, in Mecca, or in the early Medinan period when Muslims coexisted with Jewish tribes and the pagan Arabs before the expulsion of the Jewish tribes and before the widespread acceptance of Islam, Q. 109:6 ("For you is your religion, and for me is mine") remained fully applicable. At that stage, Muslims lacked the authority and capacity to remove injustice, repel aggression, or openly uphold the truth.⁶⁰ However, once the Muslim community attains political authority and assumes responsibility for the administration of society, it becomes obligated to safeguard *al-niẓām al-‘amm* (public order), as well as the preservation of life, intellect, religion, human dignity, and property. Under such circumstances, it is required to take appropriate measures against those who perpetrate injustice.⁶¹

Furthermore, concerning the question of whether the Sunnah may abrogate the Qur'an, 'Ali Jum'ah likewise rejects this position. He acknowledges that some scholars have argued that the Sunnah is capable of abrogating Qur'anic rulings. Nevertheless, he maintains that the overwhelming majority of Prophetic traditions have been transmitted through solitary reports (*khābar āḥād*), whereas only a limited number, no more than approximately 120 traditions, are transmitted through *mutawātir* channels. Among these *mutawātir* reports, none explicitly establishes the abrogation of a Qur'anic ruling. On the contrary, the traditions most frequently cited as evidence for the abrogation of Qur'anic verses are generally based on weak reports and therefore cannot serve as definitive proof.⁶²

On this basis, 'Ali Jum'ah adopts the position that rejects the doctrine of *naskh al-tilāwah*, whether understood as the abrogation of recitation while the legal ruling remains in force or as the abrogation of both the recitation and the ruling. In his view, none of the reports invoked in support of these doctrines satisfies the standards of authenticity established by the science of ḥadīth. Moreover, their acceptance is incompatible with the Muslim consensus that the Qur'an has been divinely preserved in its entirety, both in its wording and its meaning. Rejecting *naskh al-tilāwah*, therefore, also closes a potential avenue through which false claims might be employed to undermine the integrity of Islam. Likewise, 'Ali Jum'ah maintains that no abrogation occurs with respect to the legal rulings of the Qur'an (*naskh al-ḥukm*). The Qur'an, he argues, is an eternal source of guidance whose teachings remain valid and applicable across all times and places. As God's final revelation to humanity, it continues to provide enduring guidance through

⁶⁰ Jum'ah, *Wa Qāla al-Imām*, 81.

⁶¹ Jum'ah, 81–82.

⁶² Jum'ah, 82.

its commands, prohibitions, directives, and admonitions. Accordingly, none of its legal rulings has been abrogated, whether by another Qur'anic verse or by the Sunnah.⁶³

Naskh may occur within the Sunnah, and the Qur'an may abrogate the Sunnah, but not vice versa. This is because the Qur'an has been transmitted through *mutawātir* reports, which provide definitive (*qaṭ'i*) certainty, whereas the vast majority of the Sunnah has reached us through solitary reports (*khābar āḥād*), whose evidentiary value is probabilistic (*ẓannī*). Consequently, evidence that is *ẓannī* in nature cannot abrogate evidence that is *qaṭ'i*.⁶⁴

Accordingly, 'Ali Jum'ah's understanding of the theory of *naskh* differs from the conception of *naskh* that has predominantly developed within the tradition of the *uṣūliyyūn*. In the conventional understanding, *naskh* is associated with the abrogation of a legal ruling or with the declaration that the period of its validity has come to an end. 'Ali Jum'ah, however, approaches *naskh* through the concept of suspending the application of a ruling due to particular circumstances, which he refers to as *al-nasā'*. In other words, a change in circumstances does not bring about the termination of a Qur'anic ruling; rather, it results in the postponement of its application until the conditions underlying its implementation are once again fulfilled. At this point, 'Ali Jum'ah's position bears a notable affinity with that of al-Ghumārī, particularly in their rejection of *naskh al-tilāwah*. His position also places him within a broader group of contemporary Muslim scholars who have developed distinctive approaches to the theory of *naskh*, including Jasser Auda and Maḥmūd Muḥammad Ṭāhā, both of whom challenge the conventional understanding of *naskh* as the final and permanent abrogation of a legal ruling.⁶⁵ For 'Ali Jum'ah, accepting such permanent abrogation would open the door to significant methodological and theological problems.

CONCLUSION

The study finds that 'Ali Jum'ah's contribution to the renewal of *uṣūl al-fiqh* represents a progressive approach that seeks to reconcile the classical Islamic intellectual tradition (*turāth*) with contemporary realities. Rather than abandoning the classical heritage, he argues that *turāth* should remain the primary methodological foundation while being critically reinterpreted and contextualized to address the challenges of modern life. His reconstruction integrates structural and substantive dimensions into a coherent

⁶³ Jum'ah, *Al-Naskh 'Inda al-Uṣūliyyin*, 152.

⁶⁴ Jum'ah, *Wa Qāla al-Imām*, 84.

⁶⁵ Rijalul Fikri, "Teori Naskh Al-Qur'an Kontemporer (Studi Pemikiran Mahmud Muhammad Taha dan Jasser Auda)" (Sekolah Pascasarjana UIN Syarif Hidayatullah, 2021), 154.

framework of renewal. Structurally, it encompasses six principal reforms: eliminating non-essential discussions borrowed from logic and theology, presenting precise definitions, expanding the use of illustrative examples and juristic cases (*furū*), reorganizing *uṣūl al-fiqh* according to the *mujtahid*'s reasoning process, introducing an independent prolegomenon to the discipline, and compiling technical indexes and terminological references. Substantively, it advances three major proposals: reordering the hierarchy of *al-ḍarūriyyāt al-khams*, incorporating *idrāk al-wāqi'* (the understanding of contemporary reality) into *uṣūl al-fiqh*, and re-evaluating the classical theory of Qur'ānic *naskh*. These findings demonstrate that 'Ali Jum'ah's project of renewal extends beyond methodological refinement to offer a comprehensive reconstruction of *uṣūl al-fiqh* capable of responding to contemporary legal and social challenges while remaining firmly rooted in the Islamic scholarly tradition. However, this study focuses on examining 'Ali Jum'ah's major works and reconstructing the conceptual and methodological framework of the renewal project he proposes. It does not yet examine how these reconstructed principles operate when applied to concrete legal cases or how they influence the formulation of particular legal rulings in practice. Furthermore, the findings of this study would benefit from comparative analysis with other thinkers of *uṣūl al-fiqh* renewal. Comparative studies of modern Muslim thinkers who have likewise advocated the renewal or reconstruction of *uṣūl al-fiqh* would be valuable for identifying the distinctive characteristics, strengths, and limitations of 'Ali Jum'ah's approach within the broader discourse of Islamic legal reform.

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