

## Sayyid Quṭb's critique of *fiqh*

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**Abstract:** Sayyid Quṭb's views on *fiqh* (jurisprudence) have been the subject of significant critique. This paper seeks to understand the bases of such criticisms through a qualitative content analysis of his exegesis and other writings. We begin with a brief survey of the views of scholars who have spoken in favour of and against him, followed by a brief biographic profile of Quṭb. This paper focuses on Quṭb's critique of three key issues. First, the terms "*Fiqh al-Awrāq*" (jurisprudence of papers) and "*Fiqh al-Ḥarakah*" (dynamic jurisprudence) as employed during his discourse on *fiqh* are analysed. Second, his interpretation of the concept of "*Dār al-Islām*" (Land of Islam) and "*Dār al-Ḥarb*" (Hostile Land) that led to criticisms by jurists are analysed through a comparison with the views of other jurists. Third, his discourse on the application of the concept of *al-marḥaliyyah* (stages) in *jihād*, that caused misunderstandings among jurists, is analysed in the context of a response to the need for developing dynamic jurisprudence for contemporary communities. The study endeavours to dispel ambiguities and present an objective account of Quṭb's discourse on *fiqh*.

**Keywords:** Dynamic jurisprudence; *fiqh*; *jihād*; Muslim jurists; Sayyid Quṭb.

**Abstrak:** Pandangan Sayyid Qutb mengenai *fiqh* (perundangan) telah menjadi subjek kritikan yang ketara. Kertas kerja ini bertujuan untuk memahami asas-asas kritikan melalui analisis isi kandungan secara kualitatif terhadap tafsiran dan penulisan-penulisan beliau. Dengan memberi ulasan ringkas terlebih dahulu terhadap pandangan-pandangan cendekiawan yang telah menyatakan pandangan mereka secara positif dan secara negatif, dan diikuti dengan profil biografi ringkas Sayyid Qutb. Kertas kerja ini memberi tumpuan terhadap

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kritikan Sayyid Qutb dalam tiga isu utama. Pertama, pernyataan “*Fiqh al-Awrāq*” (perundangan kertas kerja) dan “*Fiqh al-Ḥarakah*” (perundangan dinamik) yang digunakan semasa perbincangannya terhadap *fiqh* telah dianalisis. Kedua, interpretasinya terhadap konsep “*Dār al-Islām*” (tanah Islam) dan “*Dār al-Ḥarb*” (tanah peperangan) yang menuju kepada kritikan oleh ahli undang-undang turut dianalisis melalui satu perbandingan dengan pendapat-pendapat ahli perundangan yang lain. Ketiga, perbincangannya terhadap aplikasi konsep *al-marḥaliyyah* (gradualisme) dalam *jihād* yang menyebabkan penyalah tafsiran dalam kalangan ahli perundangan turut dianalisis dalam konteks untuk menjawab keperluan untuk pembentukan perundangan yang dinamik bagi komuniti sejagat. Kajian ini berusaha untuk menghilangkan kesamaran dan untuk mengutarakan perbincangan Sayyid Qutb terhadap *fiqh* secara objektif dan mendalam.

**Kata Kunci:** Perundangan dinamik, *fiqh*, *jihād*, ahli-ahli perundangan, Sayyid Qutb.

Westerners and Easterners acknowledge Sayyid Qutb’s (henceforth, Qutb) influence on contemporary Islamic thought. Numerous titles have been bestowed upon him, including “the ideologue of the *Ikhwān*” (Ḥussain, 1983, p. 9), “the most noted advocate of the interpretation of Islam as revolution” (Haddad, 1983, 17), “an eminent leader of the Brethren” (El-Sadat, 1978, p. 66), “one of Islam’s new crusaders, a great author and scholar” (al-Nadwi, 1975, p. 66), and “matchless writer” (Ḥasan, 1980, p. 17). He was also regarded as “the only thinker who enjoys purity in intellectual methodology and straightforwardness in action” (Barakāt, 1972, p. 3), “one of the greatest thinkers of contemporary Islamic thought” (‘Abd Allāh, 1972, p. 3), “the most famous personality in the Muslim world in the second half of the twentieth century” (Faḍlullāh, 1979; Haim, 1982, p. 149), and “the revolutionary of contemporary Islamic thought” (Qutb, 1972, p. 23). In essence, these titles are a reflection of his many praiseworthy contributions.

Concurrently, a number of criticisms are also made against his thought. Qutb has been accused of being the father of terrorism (Worth, 2001). Some of his interpretations of Islamic creed are criticised. His classification of Islamic and ignorant societies has drawn criticism. His rejection of secular ideologies, worldviews, and man-made systems has led some to conclude that Qutb is an adversary of Western political forces who fosters extremist tendencies (Irwin, 2001). Qutb is also regarded by

some as a deviant in jurisprudential and creedal issues (Rashid, 1993), whose interpretations of such issues are a threat to national harmony (Rashid, 1993). Prominent among such criticisms are those pertaining to Qutb's stand on *fiqh*.

Fundamentally, Qutb sought to provide new insights into *fiqh* for sustainable development of the Muslim community. He was advocating for creativity in *fiqh*, to which end he appealed to jurists to evaluate the relevance of earlier interpretations of legal rulings. However, Qutb's call for creative application of *fiqh* has been manipulated by certain groups, including the Egyptian based *Jamā'at al-Takfīr wa-al-Hijrah* (the organisation that charged people with unbelief and called for migration) which is claimed to be the brainchild of Qutb. This organisation manipulated Qutb's teachings in his exegesis and controversial book, *Ma'ālim fī al-Tarīq*, to suit their preconceived notions and derived strange conclusions which they unfairly attributed to Qutb.

In analysing Qutb's juristic discourses, al-Bahansāwī exposes *Jamā'at al-Takfīr's* misunderstanding of Qutb's views, such as marriage with polytheistic women, permitting slaughter of cattle by polytheists, calling for rejection of juristic rulings and returning to the Meccan period where there was neither legislation of laws nor their enforcement (al-Bahansāwī, 1977, pp. 220-224). Their gross misunderstanding of Qutb led them to believe that Qutb called for the abolition of *fiqh* and discarded the entire juristic rulings of the predecessors. In analysing these allegations, Barakāt states that Qutb was severely condemned for his stand on *fiqh*. Among those who slammed him is Wahbat al-Zuḥaylī in the Kuwait based magazine, "*al-Wa'y al-Islāmī*". In his article, "*al-Mu'tadūn 'alā al-Fiqh al-Islāmī*," he accuses Qutb of undermining the credibility of *fiqh* (Barakāt, 1972, p. 166). Given such controversies, this paper analyses Qutb's critique of *fiqh*, following a content analysis of his writings, especially his exegesis.

### **A brief profile of Qutb**

Hailing from a philanthropic family and having memorised the Qur'ān, Qutb (1906-1966) graduated from Dār al-'Ulūm in 1933, worked as a teacher in state schools, and published several articles and poems. After teaching, he moved to the Ministry of Education as an officer and worked in the Department of Inspection. He remained in this office for eight years until he was sent to America by the Ministry of Education

in an attempt to separate him from Cairo and indoctrinate him with Western culture and values. It was a strategy to transform him to be an instrument for implementing Western philosophy in Egypt and as an agent of Western values like the majority of the delegates sent for higher education in Western institutions of high learning at that time (al-Khālīdī, 1985, p. 126; Ḥusayn, 1986, p. 30).

Quṭb excelled in religious sciences, social sciences, mathematics, philosophy, biology, physics, and educational methodology, set a high academic standard, manifested intellectual excellence, and attended lessons conducted by al-Azhar scholars. His literary criticism demonstrates his critical insights and analysis of literary works, and assisted him in producing literary masterpieces. He was a supporter of the Muslim Brotherhood, and played a central role in the success of the 1952 revolution, which abolished the monarchy and paved the way for the establishment of democracy in Egypt. His strong ideals meant that he did not compromise with the authorities and as such was sentenced to death along with many other active members of the Muslim Brotherhood who sought a better and freer Egypt.

Quṭb's exegesis is regarded as his most significant work (al-Khālīdī, 1986, pp. 40-45) and one of his highest achievements (Mousalli, 1988, p. 23). He is considered a reformist and the founder of the "School of Dynamic Exegesis" (al-Khālīdī, 1985, p. 547). His exegesis presents the general characteristics of the Islamic worldview and explains the divine constitution for life and society (al-Khālīdī, 1991, p. 244). It is regarded as an encyclopaedia of ideas as it deals with knowledge and culture and several methods of political, economic, social, cultural, and educational reform (al-'Azam, 1980, p. 274).

### **Quṭb's views on *fiqh***

According to jurisprudential literatures, *fiqh* is classified into two: *Fiqh al-'ibādāt* and *fiqh al-mu'āmalāt*. *Fiqh al-'ibādāt* refers to rulings concerning acts of devotion. *Fiqh al-mu'āmalāt* represents subjects such as inheritance, family issues, and others. In this context, it is important to note that Quṭb does not limit the scope of *fiqh* into two micro-disciplines, rather he generalises the term *fiqh* to contain every methodology, statute, Islamic instruction and guideline, rites and ritual, legislation and organisation of laws, Islamic financial system, Islamic economic system, Islamic social system, Islamic criminal system,

Islamic international system and others. Qutb argues that all matters crucial for governing the entire Muslim lifestyle should be included in *fiqh*. He calls for a comprehensive code of *fiqh* that regulates life in all areas, including legislation and social development. According to him, purifying one's Islamic creed, the need for authority, leadership selection, and members of the *shūrā* (consultation) are important aspects of an Islamic society, which should have been sufficiently incorporated in *fiqh*.

Many scholars believe that there is a need for evaluating the earlier interpretations to serve the needs of contemporary society. In this regard, AbuSulayman (1994) calls on the Muslim community to realise its fallacies of thinking which is based on blind following. He considers this phenomenon as a crisis of the Muslim mind, implying that Islam itself is problem free but that Muslims, particularly scholars who are unable to understand priorities, are inflicted with a crisis of the mind. Other Muslim scholars use terms like reform (*iṣlāh*), renewal (*tajdīd*), realistic (*al-wāqī'*), and purposive (*al-maqāṣid*), implying that there is a need for reforming Islamic thought (Ibrāhīm, 1997, p. 29). Many works have been published, emphasising the need for reforming the thought (*iṣlāh al-fikr*) of contemporary Muslims. One may thus argue that the social changes Qutb desired have been implicitly advocated by others. However, Qutb uses terms that were either controversial or antagonistic to the authorities. Unlike him, other scholars were more mindful of their terms, and pursued their objectives through teaching, research, and discourse.

Qutb believes that with all its juristic rulings, *fiqh* was not the basis that developed the Muslim community but it was the dynamism that guided the ignorant society. For him, *fiqh* was developed with dynamism in addressing real needs (Qutb, 1977, vol. 4. p. 2010). However, attempting to ascertain Qutb's exact stance regarding *fiqh* can be difficult in lieu of what appear to be conflicting statements. What is certain is that he advocated for the establishment of a dynamic Islamic life to which end it is difficult to imagine a rejection of Islamic law.

### ***Fiqh al-awrāq and fiqh al-ḥarakah***

Qutb employs the terms "*Fiqh al-Awrāq*" and "*Fiqh al-Ḥarakah*" during his discourse, which has been a source of contention and confusion. He sought to discard what he believed to be an out-dated *fiqh*, which

he called *fiqh al-awrāq* (jurisprudence of papers), and advocated for its replacement with *fiqh al-ḥarakah* (dynamic jurisprudence or jurisprudence related to the practical life). It was Quṭb who first used this term in the process of discussing the need for producing dynamic jurisprudence and is thus regarded as the founder of the *fiqh al-ḥarakah* movement (Ibrāhīm, 1997, p. 29).

This observation needs to be studied. The theme of *fiqh* which Quṭb speaks about and calls for is to postpone the discussion until the establishment of an Islamic community. *Fiqh al-awrāq*, according to him, refers to jurisprudential issues which prepare its followers who are not dynamic in the true sense of the word to establish the law of God in all aspects of life. Therefore, he argues, they (jurists) spend their energy to conduct research theoretically and interact with only papers.

*Fiqh al-ḥarakah*, as used by Quṭb, refers to *fiqh* that prepares its followers to be active, calling people to establish the religion and directly interact with the Qur’ān and patterns of the Prophet (S.A.W.). He calls for the postponement of futile discussions on jurisprudential themes to its proper time, i.e., after the establishment of an Islamic community in the true sense and to move forward in formulating *fiqh al-ḥarakah* which is more related to the practical life of the Muslim community. Al-Qaraḍāwī (n. d.) calls such jurisprudence as “*fiqh al-Awlawiyyāt*” (*fiqh* of Priorities). The objectives of both Quṭb and al-Qaraḍāwī are the same but their approaches are different.

Quṭb differentiates between *fiqh al-awrāq* and *fiqh al-ḥarakah*. *Fiqh al-awrāq* neglects dynamism and its necessities, while *fiqh al-ḥarakah* sees this religion as dynamic and penetrates the *jāhiliyyah* (ignorance) system, deriving laws after considering the on-going realities (Quṭb, 1977, vol. 3, p. 1743). This implies examining the relevance of laws according to the needs. Quṭb further remarks that *fiqh al-ḥarakah* takes into consideration the events instrumental to the revelation of the texts (Quṭb, 1977, vol. 4, p. 2006). He argues that *fiqh* does not emanate except in a dynamic Islamic atmosphere. Nor is it taken from an ineffective jurist, where dynamism is absent. Those who are addicted to books and papers to develop laws are far removed from the dynamism of *fiqh*, which aims at liberating people from servitude of man to the sole servitude to God. According to Quṭb, the so-called jurists neither realise the nature of this religion nor intend to embellish the shaping of

*fiqh* (Quṭb, 1977, vol. 3, p. 1735). This highlights how Quṭb's criticism is not directed to all jurists but to those who confine *fiqh* to rituals and issues concerning the lawful and the prohibited in the narrow sense of the term.

Quṭb draws attention to two basic facts in relation to *fiqh*, its origin, and development. *Fiqh* did not originate in a vacuum nor was it understood in a vacuum. It gradually emerged in the community by meeting the needs of Muslims. Likewise, *fiqh* did not establish the Muslim community, but it was the Muslim community with its realistic dynamism in facing its needs that developed *fiqh*. This implies that the past communities developed *fiqh* and formulated laws based on their needs. Those laws and interpretations may not be relevant today, as time has changed. Quṭb therefore calls on the contemporary Muslim community to develop *fiqh* by considering contemporary realities. These historical facts are necessary in understanding the nature of *fiqh* and realising the dynamism of legal rulings (Quṭb, 1977, vol. 4, p. 2006). Quṭb has no objection for jurists to interact with papers, books and texts, on the condition that they consider the dynamism and the real situations in which *fiqh* originated. By doing this, they will not deviate from the realistic needs of the Muslim community. He holds that those who interpret the texts and the body of laws without referring to the circumstances in which those texts were revealed and laws originated will fail to produce dynamic *fiqh*.

Having highlighted the differences between the two kinds of *fiqh*, Quṭb calls for the development of *fiqh al-ḥarakah* as opposed to the purposeless action of *fiqh al-awrāq*. He believes that prior to the establishment of the Muslim community, the work in the field of *fiqh* and the development of laws is a fruitless endeavour like sowing seeds in the air. He remarks that *fiqh* will not grow in a vacuum, as seeds will not grow in the air (Quṭb, 1977, vol. 4, pp. 2010-2012).

Quṭb's vision of developing *fiqh al-Ḥarakah* has arguably materialised. Muslim jurists and economists have presented blueprints for an Islamic bank. Efforts were made in the last few decades to develop financial products in compliance with *Sharī'ah*. Contemporary jurists are ambitious in Islamising most of the existing banking, economic and finance systems. Likewise, jurists promote collaborated efforts with sociologists, political scientists, psychologists, and educationists

to produce what can now be called *fiqh al-ḥarakah*, focussing on the development of a comprehensive code of *fiqh* prescribing solutions to their problems. Economists have envisaged the contract based on *mushārah* (active partnership) and *mudārabah* (passive partnership). Other popular variations in these modes are *muzārah* (partnership in share cropping) and *musāqāt* (partnership in horticulture). Other products include *murābahah* (cost plus service charge), *ijārah* (leasing), *ijārah wa-iqtinā'* (hire purchase), *bay' mu'ajjal* (sale on deferred payment), and *bay' salam* (forward delivery contract), and *bay' istiṣnā'* (contracted production). These are *Sharī'ah* compliant products, implemented by Islamic banks which were not found in the 1960s and 1970s, let alone in the early years, nor were they explained appropriately except recently. Such developments are arguably manifestations of *fiqh al-ḥarakah* as espoused by Quṭb.

### ***Dār al-Islām and dār al-ḥarb***

In the foregoing pages, Quṭb's critique of *fiqh* has been analysed which revealed that there is a need for the review of *fiqh* for the benefit of Muslims. An example of his critique is the concept "*Dār al-Islām* and "*Dār al-Ḥarb*". Quṭb offered a unique interpretation of the concept that drew criticism from jurists. As this is significant to understand Quṭb's stand on *fiqh*, we study and compare his views with others in detail.

Quṭb's discourse on *dār al-Islām* and *dār al-ḥarb* underlines their basic characteristics. According to him, it is the Islamic creed that distinguishes between both Lands. However, scholars differ in their interpretation of Quṭb. Quṭb's discourse on *dār al-Islām* and *dār al-ḥarb* appears twice, once in *Fī Zilāl al-Qur'ān* and the other in *Ma'ālim fī al-Ṭarīq*. Quṭb discussed the concept in verses 27-40 of *al-Mā'idah* in *Fī Zilāl*. He explained some of the fundamental laws in the life of human beings which are governed by God and His laws. He also explains the laws for the defence of the public system from all sorts of deviations and the power which is established by the command of God in the shades of His *Sharī'ah* (Quṭb, 1977, vol. 2, pp. 872-873).

According to Quṭb, the legal rulings regarding *dār al-Islām* and *dār al-ḥarb* are not valid except in an Islamic environment. They cannot be enforced except by an Islamic community and their benefits cannot be realised except in *dār al-Islām* (al-Khālīdī, 1986, p. 250). He argues that before one penetrates the context and the Prophetic traditions which

contain these rulings, it is necessary to make a general statement about the milieu that enforces these rulings and the conditions that render them effective. This implies that all legal rulings on crimes, capital punishment, reprimands, and others are effective only in the community of *dār al-Islām* (al-Khālidī, 1986, p. 250). Thus, it is necessary to explain what *dār al-Islām* means in the *Sharī'ah* (Quṭb, 1977, vol. 2, p. 873).

Quṭb argues that from the Islamic perspective the world is divided into two. First is *dār al-Islām* that comprises every nation in which *Sharī'ah* is implemented and is the only governing body, whether its people are Muslims or the population consists of Muslims and free non-Muslim subjects. It may be that all of its people are free non-Muslim subjects but its rulers are Muslims or Muslims who implement *Sharī'ah* and govern the nation by it. It may be that all are Muslims or free non-Muslim subjects living together but their nation is populated by hostile people, yet, the people of the nation implement *Sharī'ah* and judge according to it. In other words, wherever *Sharī'ah* is implemented is considered *dār al-Islām* and wherever *Sharī'ah* is ignored is considered *dār al-ḥarb*. The Muslim community is at par with *dār al-Islām*. It stands for the methodology of God and is governed by *Sharī'ah*. To Quṭb, such a community deserves to be protected, its wealth safeguarded, its public system defended, and its people secure. Quṭb advances his views that *dār al-Islām* stands for a Muslim state that keeps an eye on God's law administered by Muslims through mutual cooperation.

Having illustrated the concept, Quṭb underlines the criteria of the two Lands. He states that with this comprehensive and integrated argumentation and definite resolution, Islam came to enhance the honour of human being and liberate him from all ethnocentric and nationalistic inclinations and loyalties. He opines that there is no homeland for a Muslim except where *Sharī'ah* is established and the bond between him and other inhabitants is developed based on an obligation to God and not nationality (Quṭb, 1977, pp. 184-186).

It seems that Quṭb's objective of demarcating the differences between the two Lands is to explain the ideological aspects and correct Muslim views about the homeland and nationality. *Dār al-Islām* is the homeland for Muslims even though an individual is not born and does not live there. *Dār al-ḥarb* refers to a land in which Islam is not enforced even though it is one's homeland (Quṭb, 1977, pp. 192-193).

Many jurists disagree with Quṭb on these conceptualisations. Some contemporary jurists believe that this cannot be enforced, given the current political and social structure. Therefore, it is possible to deduce that according to Quṭb every land that fights a Muslim in his creed, dissuades him from his religion, and obstructs the activities of *Sharī'ah* is *dār al-ḥarb*, even if one's family and clan reside there. In contrast, every land in which the Islamic creed and *Sharī'ah* are established and promoted is *dār al-Islām* even if one has no family or clan there (Quṭb, 1977, p. 195).

When comparing Quṭb's view with early views, Abū 'Izzah holds that the lands of Muslims are lands of Islam and it is obligatory to defend them (al-'Azam, 1980, pp. 305-307). Al-'Azam supports the views of Wahbat al-Zuhaylī in limiting the scope of *dār al-Islām* and *dār al-ḥarb*, where he takes into account the historical factors and geographical locations and not the rulings, the systems and the legislation (al-'Azam, 1980, pp. 305-307). He remarks that Islamic lands are such lands where *Sharī'ah* is implemented. Then if such lands fall under the control of infidels or unjust rulers, where Islamic laws are not in place, they still remain *dār al-Islām* and their characteristics are not changed. According to him, Quṭb has misunderstood by considering the entire Muslim world as *dār al-ḥarb* (al-'Azam, 1980, p. 306).

'Awdah explains that jurists have divided the world into two divisions, regarding every Islamic country as *dār al-Islām*, and every other country as *dār al-ḥarb*. According to him, *dār al-Islām* comprises countries in which Islamic laws are noticeable or their people are able to enforce Islamic laws. Every country where its entire population or the majority are Muslims and every country in which Muslims dominate and rule, even though the majority of its population are non-Muslims are considered *dār al-Islām*. Every country in which non-Muslims, dominate and rule and yet Muslims are able to visualise Islam or there is no restriction for Muslims to see Islamic laws practised is also considered *dār al-Islām* ('Awdah, n. d., vol. 1, pp. 275-276). According to 'Awdah, *dār al-ḥarb* comprises every non-Islamic country that does not come under the rule of Muslims or does not establish Islamic laws, whether it is ruled as a single state or federation of states. The inhabitants of *dār al-ḥarb* are of two kinds: either people on whom war is waged (*ḥarbiyyīn*) or people who submit to the Divine will (*Muslimīn*) ('Awdah, n. d., vol. 1, pp. 275-276).

In this context, Qutb seems to be in conformity with the majority. Hence, it is not proper to accuse him as a deviant. Charging him as an adversary of the jurists or jurisprudence is unfair. When considering the current situations and the organic structure of laws and rulings in Muslim countries, Muslim nations are not in a position to justify that they are purely Islamic in the true sense. Likewise, some people have misunderstood Qutb's articulation of a *jāhiliyyah* community. Others have erred in their estimation of Muslim countries, which they have regarded from historical and geographical perspectives. They may be historically or geographically classified as Islamic, but jurists do not use this criterion and focus instead on legal structures and practices. Al-Bahansāwī remarks that if *dār al-ḥarb* in the terminology of jurists is that it is not ruled by *Sharī'ah*, then it is not proper to rule by other than the Law of God. This is one of the fundamental and self-evident truths of Islam. Moreover, the characteristic of a community or state in *dār al-Islām* does not mean that every individual must be a Muslim. Qutb's statements regarding *dār al-ḥarb* is applicable to the community or the state that prefers structures and laws other than *Sharī'ah* (al-Bahansāwī, 1977, pp. 250-251). Qutb's argument concerns theoretical principles with the aim of providing an ideational clarification and a critical revision of the worldview of Islam. It is not his intention to apply it to anyone at this age, nor its implementation by societies or countries.

### ***Al-marḥaliyyah in jihād***

Having analysed Qutb's views about the concept of *dār al-Islām* and *dār al-ḥarb*, we cite another example from his discourse on *fiqh* in which his perspective of applying *al-marḥaliyyah* (stages) in *jihād* is manifested. Qutb has a unique stand on *jihād*. To him, *jihād* refers to a struggle in the cause of God, establishment of the godhead of God on earth and dismissal of false gods against His authority. The proclamation that the Lordship of the universe is only for God means a comprehensive revolution against the sovereignty of man in any structure, form and situation, and total insubordination against any circumstance where the laws of man are dominant. This implies eliminating illegal authority vested in man and returning the sovereignty to God, removing His usurpers who rule by legislating laws made by them, establishing themselves as lords and treating people as slaves. This means demolishing the kingdom of man in order to establish the kingdom of God (Qutb, 1977, vol. 3, p.1433).

In *al-marḥaliyyat al-aḥkām* (stages of rulings) concept as propagated by *Jamā'at al-Takfīr*, the ruling is divided into Meccan and Medinan. By Meccan, it is meant that it is obligatory to follow now, while Medinan means it is not obligatory at present. According to them, the present circumstances are similar to Meccan situations of aggression. *Jamā'at al-Takfīr* and some of its offshoots claim that the situation of Muslims is similar to the Meccan period. They insist on people accepting their view and attribute their interpretations to Quṭb. What is important is that when Quṭb discusses the concept of *al-marḥaliyyah*, he does not speak about stages in respect to all legal rulings except on the issue of *jihād*. He, therefore, is not responsible for the opinion that the proponents subscribe to in invalidating a number of legal rulings under the pretence of *al-marḥaliyyah* (Barakāt, 1972, p. 221). Al-Bahansāwī responds to *Jamā'at al-Takfīr* regarding its understanding of the concept and refutes its claim of erroneously attributing their view to Quṭb. He discusses their stand with regard to marrying unbelieving women, slaughtering of the cattle by polytheists, the stages, the age of oppression and others (al-Bahansāwī, 1977, pp. 209-237).

Al-Bahansāwī remarks that he discussed with a leader of the *Jamā'ah* that subscribes to the concept of *takfīr* (charging Muslims as infidels). The group believed in the notion of charging the community and its individuals as infidels and regarded their wives as polytheists, in spite of the fact that the Qur'ān declares such acts unlawful. This leader remarked that “we live in the age of oppression, i.e., similar to Meccan period where marriage with polytheistic women was permissible.” Al-Bahansāwī asked him to provide evidence. He replied he understood it from Quṭb. Al-Bahansāwī reiterated that Quṭb had documented his view but not with the understanding that the person had. The person responded that the contract of marriage with their wives has been extended on the basis that they were among the People of the Scripture and marriages were permissible. Al-Bahansāwī asked the person; “Did Quṭb issue this ruling?” The person replied; “No, but Quṭb was saying that this issue needed proper elucidation by jurists. Thus, I reached an opinion on this issue.” Al-Bahansāwī responded that “how can you attribute to Quṭb an idea that he did not explain, then ask me to clarify the lawful and the prohibited on this issue?” (al-Bahansāwī, 1977, pp. 220-221). From Quṭb's discourses, it can be inferred that he does not generalise the concept of *al-marḥaliyyah* for all legal rulings but to *jihād* only.

Propounding stages in *jihād*, Quṭb provides evidence from the Prophet's (S.A.W.) biography. First, the treaty that the Prophet signed with the Jews and polytheists of Medina in order to uphold peace and maintain collective defence of the city against all forms of aggression. Second, the treaty of *Hudaybiyyah* signed by the Prophet with seemingly unfair conditions that reflected a loss for Muslims but was in fact in the interest of the Muslim community (Quṭb, 1977, vol. 3, pp. 1547-1548). In analysing the wisdom behind the treaties, Quṭb remarks that the dynamic methodology for the religion is that it always deals with realities. It is flexible but with solid and firm grounds (Quṭb, 1977, vol. 3, pp. 1547-1548).

Elucidating verse 123 of *al-Tawbah*, Quṭb remarks that there is a command to fight those infidels who gird Muslims. Regarding *aḥkām al-marḥaliyyah* in *jihād*, Quṭb's view is that it is not abrogated. The Islamic movement faced the realities in various situations that limited the scope of absolute *jihād*, i.e., the rulings were adequate or appropriate to consider according to circumstances, places, and time without forgetting the final rulings (Quṭb, 1977, vol. 3, p. 1680). If contemporary Muslims do not encounter such a reality to implement these rulings, they, for the time being, are not obligated to observe the realisation of *jihād*, as God says that He does not burden a soul except that which it can bear (Qur'ān, 2:286). They have *aḥkām al-marḥaliyyah* in abundance to gradually advance until they find the context appropriate for the full implementation of the final rulings on *jihād*. Quṭb remarks that those final rulings mentioned in *Sūrat al-Tawbah* came at a time of serious confrontation between the Muslim and Ignorant communities. The circumstances were such that it was obligatory for them to implement those rulings. As for today, the situation is different and therefore *aḥkām al-marḥaliyyah* should be enforced.

As soon as the Muslim community emerges, it will be dynamic thereby being in the state of implementing *aḥkām al-marḥaliyyah*. However, it is incumbent upon the Muslim community to remember that what they implement is *aḥkām al-marḥaliyyah* and thus it should strive to reach the final stage of implementing the final rulings, which decide the ultimate relationship between it and other communities (Quṭb, 1977, vol. 3, p. 1744). At this juncture, it is appropriate to ask whether Quṭb was the innovator of stages in *jihād* or if others had a similar view. While discussing the theory of abrogation, scholars provide their views

regarding the rulings on *jihād*. The majority of them advocate that *āyat al-sayf* (verse related to sword) is abrogative of all earlier verses on *jihād* that deal with gradual stages. Ibn Khuzaymah (n. d., p. 264) argues that God revealed *āyat al-sayf* which abrogated one hundred and thirteen verses. Others contend that earlier verses indicating stages were not abrogated. Al-Qaysī argues that verse 109 of *al-Baqarah* has been abrogated by the command of fighting. As for *āyat al-sayf*, al-Qaysī prefers that it has abrogated other verses revealed earlier related to *jihād*, patience, tolerance, and forgiveness (al-Qaysī, 1986, pp. 103-105). According to Ibn Kathīr (n. d., vol. 3, p. 365), the directives of *jihād* in *Sūrat al-Tawbah* abrogated other verses that contain the covenant with polytheists.

Scholars argue that even if we rely on al-Qaysī's view that *āyat al-sayf* has abrogated the previous verses related to *jihād*, it does not mean that we cannot return to those abrogated verses. The amazing reflection of al-Qaysī is that he has referred to all kinds of abrogation which according to him are classified into three. First, abrogation is on religious duty. It has abrogated what has been made obligatory and it is not permissible to act upon the abrogated ruling. The example for this is the ruling prescribed by verse 15 of *al-Nisā'* that has been abrogated by the ruling of verse 2 of *al-Nūr*. Second, abrogation is on religious duty, which has abrogated another obligatory act. Regarding this, there is an option to act upon the former. The example for this is the ruling prescribed by verse 65 of *al-Anfāl* that has been abrogated by the ruling of verse 66 of *al-Anfāl*. Third, abrogation is a command by leaving the act by the abrogated that was obligatory without any substitute. There is an option to act upon the abrogated or to leave it, but action by it is preferable and rewarded. The example for this is night worship that was made obligatory and then abrogated by the command that lightened it in *al-Muzzammil*.

If we consider the above classification as meaningful, then why do we not include the abrogation of verses of *jihād* in the second kind of abrogation, which al-Qaysī was referring to in his discourse? In addition, if we want to testify the authenticity of the opinion of Quṭb regarding stages in *jihād*, then it is appropriate to study the views of early scholars. In this regard, al-Zarkashī's view is closer to Quṭb's. Based on the discourse, one can conclude that some scholar's views conform to Quṭb's proposition of the application of stages.

The discourse explains Qutb's view regarding the ruling on *jihād*. He holds that the gradual stages are not abrogated by the final stage as explained in *Sūrat al-Tawbah*. The *marḥaliyyah* or stages apply to *jihād* ruling alone and cannot be generalised to other rulings. We have demonstrated that Qutb was not the innovator of the view of enforcing the concept of stages. Assuming that he differs with the majority of scholars, at least he is a follower of the opinion of some prominent scholars. It is, therefore, possible to deduce that his statement on the issue of stages is not improper. His opinion is not a manifestation of deviation, rather an articulation of his reasoning, which may not be agreeable to many jurists.

### Conclusion

Qutb's discourse was a call for dynamic jurisprudence relevant to the contemporary Muslim needs. He advocates creativity in jurisprudence for the sustainable development of the Muslim community. The spirit behind the discourse is to highlight the true situations of the Muslim world that uncritically adopts legal rulings of the jurists of different periods without realising their irrelevance to the present situation due to changing circumstances. Qutb's dynamic *fiqh* project resonates in contemporary Islamic banking and finance. There are attempts, especially by jurists over the past two decades, to deduce new rulings based on analogies to resolve problems in the fields of banking, economics, insurance, and finance. New visions have emerged regarding the establishment of Islamic investments and Islamic markets. Muslim states are impressed by such moves of jurists and economists. Therefore, it is possible to conclude that Qutb was futuristic in his vision so much so that he realised the needs of the Muslim community and hence presented a new theory to develop *fiqh al-Ḥarakah* which would be dynamic and relevant to resolve the contemporary problems and crises of the Muslim community.

This study clarified some of the misconceptions regarding Qutb's interpretation of *dār al-Islām* and *dār al-ḥarb*. Those who studied his thought criticised him for urging rulers to establish *dār al-Islām* by resorting to violence. It is apparent that Qutb had only made attempts to clarify the juristic dimensions of the concept based on early Islamic sources. He also aimed at providing ideational clarification as well as a critical revision of the worldview of Islam to Muslims. What is important

to consider is that it is not Quṭb's intention to apply the concept of *dār al-Islām* and *dār al-ḥarb* to anyone at this contemporary era. On Quṭb's discourse on application of stages in *jihād*, the study made it clear that he does not call for generalisation of stages to the entire legal rulings as he was accused by jurists. He was not the pioneer in advocating this concept but a follower of the opinions of prominent scholars.

Generally, Quṭb has been accused of being an extremist. Those who reach this conclusion see him from a different perspective. If he is evaluated from the Islamic perspective, he may not be seen as an extremist in the way he was portrayed. The West considered him as an extremist because he criticised all Western ideologies and systems. Yes, he has been forceful in his articulations and analyses but whatever he has presented in terms of religious exhortations, they have justifications because the Muslim world that he witnessed was a different world, particularly Egypt, which was antagonistic to religious systems, especially during the time of Jamal Abdul Nasir. In Quṭb's view, Muslims were becoming backward because of not following *Sharī'ah* and therefore he focussed on reforming Muslims. He moved forward with his new approach to discussing issues, particularly the contemporary approach to solving the problems of Muslims, and finally he was appealing to Muslims to go back to the scripture and patterns of the Prophet (S.A.W.) and uncompromisingly adopt them as the only source of everything in life.

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