M.Ü. İlâhiyat Fakültesi Dergisi
31 (2006/2), 133-162

Some Observations on Islamic Legal Studies in Turkey[1]

Doç. Dr. Bilal AYBAKAN[2]

Özet

Cumhuriyet dönemi akademik İslâm hukuku araştırmaları, Osmanlı Devleti'nin yıkılmasıyla inkıtaya uğrayan taklid, telfik ve ijtihad sürecinin bir şekilde devamıdır. Yetmişlerde ortaya çıkmaya başlayan akademik araştırmalar seksenlerde gelişme gösterip doksanlarda bir yoğunluk kazanmıştır. Fürû fıkıh, Türk pozitif hukukuna paralel olarak kara Avrupası hukuk sistemi formatında üretildi. Usûl-i fıkıh tartışmaları ictihad kavramı üzerinden yürütüldü. Bütün bu yaklaşımlarda, genelde İslâmî araştırmalara özelde İslâm hukuku araştırmalarına damgasını vuran sürekllik ile değişim arasındaki gerilim olmuştur. Aslında herkes değişimi kaçınılmaz görmektedir. Fakat temel soru, kimliği koruyarak değişimin nasıl başarılabileceğidir. Gelenek, İslâmî kimliğin temel bir unsuru olduğundan, hiçkimse radikal bir kopuştan yana değildir. Tabiatiyle geleneğe yaklaşım tarzı ayrışmada belirleyici rol oynamaktadır. Bir yanda geleneğin sadece ruhuna sadık kalmayı yeterli bulan modernist yaklaşımlar vardır. Tabii bu, gelenekten irtibatı koparmak kadar tehlikeli algılanmıştır. Diğer yanda ise gerçek muhtevası açığa çıkarılıp bütün imkânları yeterince tüketilmeden gelenek hakkında olumsuz karar verildiği iddiası var. Teori ile pratik arasındaki karmaşa ve İslâm dünyasının içinde bulunduğu perişan durum mevcut yaklaşım ve iddia sahiplerini konumları hakkında tereddüte sevketmektedir.

Anahtar Kelimeler: Türkiye, İslâm hukuku, ictihad, tahric, telfik, *Mecelle*.

Abstract

Academic Islamic legal studies of Republican period are somehow the resumption of a taqlid-talfiq-ijtihad process that ceased with the decline of Ottoman Empire. Academic studies began to come out in 1970s, improved in 1980s, and got intensed in 1990s. Legal dimension of fiqh was mostly articulated in style of legal system of continental Europe benefiting from Turkish positive law and the modern Arabic legal classics. Debates on usûl al-fiqh have been carried out mostly through the concept of ijtihad. In all these approaches, it's the tension between continuity and change that imprints on Islamic studies in general and Islamic legal studies in particular in Turkey. Indeed, everybody agrees that change is indispensable. But, the main question is how to cope with change keeping one's identity. Since the tradition is deemed a main constituent of Muslim identity, nobody accepts a radical departure from tradition. Therefore, the manner of dealing with the tradition distinguishes the community one from another. On one side, there are modernist voices that find it enough to keep in contact with tradition in the level of spirit. This approach is conceived as dangerous, as to lead to cutting off the relation with the tradition. On the other side, there are voices that question whether we have really exhausted the potentiality of

---

1 This article is a revised version of a paper delivered at *Changeable and Unchangeable in Islamic Thought and Practice,* International Workshop and Public Forum by The Oslo Coalition on Freedom of Religion or Belief and ISAM, January 25 – 27, 2007, Istanbul. I offer my special thanks to Khalil Abdur-Rashid for his invaluable contribution to the improvement of English version of this article.

2 Assoc. Prof., Marmara University Faculty of Divinity, Turkey

the tradition in order to give a negative verdict about it. Can we say that the tradition is really outdated without having extracted its true content? Neither side feels safe with its position due to the misery of Muslim world, and the apparent contradiction between theory and practice.

Key Words: Turkey, Islamic law, ijtihad, takhrij, talfiq, *Majalla*.

Introduction

This study offers some observations on the evolution and characteristics of Islamic legal thought/scholarship in Turkey, along with its historical roots. To be documentary, an Appendix of PhD Dissertations on Islamic law in Turkish Universities since 1950 is attached. However, the present study does not have the claim of being exhaustive, for a throughout study of such a huge scholarship exceeds the compass of an article.

Since academic Islamic legal studies of republican period were the resumption of a taqlid-talfiq-ijtihad process that ceased with the decline of Ottoman Empire, it would be better to give first a historical sketch of Islamic law, and then shed light on the aforementioned process in order to clarify the place of the studied period in the whole picture.

I. A Historical Sketch of Islamic Law

The history of fiqh is roughly divided into three broad divisions: 1) Formative period: from the time of the Prophet to the beginning of fourth/tenth century, 2) the classical period: from the formation of schools of law to the invasion of Egypt by Napoleon Bonapart I, 3) Modern period: from the invasion up to now. Three periods are differentiated and characterized on the basis of the concept of *ijtihad* (independent reasoning). It is generally accepted that the activity of *ijtihad* was full-fledged in the first period. With the formation of legal schools the activity of ijtihad gradually got weak, the juristic activity was restricted within the boundaries of the affiliated legal schools. The activity of "*takhrij*" replaced ijtihad, and the idea of *taqlid* (dependant reasoning or submission to the opinions acceptable within the school) became predominant. The opinions of the legal school eponyms were almost elevated to the rank of the revealed texts. The tremendous literature of this period is mostly based on the logic of *takhrij* and *taqlid*. The *fatwa* should be issued within the doctrines of adherent's school. It was not so easy to take any opinion of another established school (*talfîq*); it was recoursed to only in certain circumstances. This structure prevailed for many centuries.

An eminent modern scholar of Islamic law gives a similar account for the last two stages of fiqh with following words: "After the period of leading mujtahids, there occurred stagnation in the activity of *ijtihad* due to various factors. Due to the lack of an environment in which juristic experience would foster fiqh and the establishment of the idea of loyalty to a school and fanatism of school affilia-

tion, fiqh no longer could maintain dynamism and fertility. This state survived until the middle of 19th century. The increasing activity of codification in the West initiated the idea of codification of law based on fiqh in the Muslim world. In this process, important works such as Majalla-i Ahkâm-ı Adliyya came to existence. On the other hand, since the end of 19th century, there has emerged a thought movement that maintained the revitalization of the institution of ijtihad so that the fiqh would gain dynamism, thus cope with the changing conditions. With the passage of time, this movement has received a strong support throughout the Muslim world. Eventually, the production of legal studies bearing the imprint of this perspective got intense"[3] Although the structure of dependent reasoning of legal schools remained dominant on Muslims' daily affairs, the challenges that Muslim societies faced, especially the schock they experienced with the Western confrontation in Egypt, and the defeat in other fronts, led to question seriously the ongoing situation. As a result, throughout the 19th century across the Muslim world, there emerged voices calling for a revival in the religious thought. Many figures such as Jamaladdin Afgani (d. 1897), Muhammad Iqbal (1877-1938), Muhammad Abduh (d. 1905), Rashid Rida (d. 1935), Jamaladdin al-Qâsimî (d. 1914), the Ottoman ulamâ and intellectuals such as Ahmed Cevdet Paşa (1823-1895), Sayyid Bey, Ziya Gökalp, Izmirli Ismail Hakkı (1868-1946), Ahmed Hamdi Akseki (1887-1951), Şemseddin Günaltay (1883-1961), and many others in 19th and 20th centuries strove for revitalization of the Islamic thought through ijtihad.

II. Taqlîd-Talfîq-Ijtihad Process

In fact, throughout 19th and 20th centuries there were individual attempts to recourse *ijtihad*, but it gradually became defended on institutional level in Ottomans. In the early stages of these initiatives, it was partially performed through "*talfîq*", a device that was deemed legitimate hitherto, and through the principle of custom. Indeed, in the early stages of codification based on fiqh, even "*talfîq*" was not boldly recoursed to. Therefore, Majalla was prepared exclusively on Hanafite doctrines. At that time, what was achieved as a challenge to the traditional *madhhab* structure was to change the established hierarchy of opinions within the school. Even in the first amendment that was carried out by the Commission of Majalla (Mecelle Cemiyeti), the attempt to accept the opinions of other schools was remained limited to certain cases. This did not satisfy the expectations. The articulation of the certain legal maxims in Majalla paved the ground to a further amendment. For instance, "Custom is considered to be an

[3] Ibrahim Kâfi Dönmez, "Fıkıh", *İslam'da İnanç, İbadet ve Günlük Yaşayış Ansiklopedisi*, İstanbul: Marmara Üniversitesi İlahiyat Fakültesi Vakfı Yayınları, 1997, vol. II, p. 42.

arbitrator" (article-36)[4], "Usage of people is an evidence that should be taken into consideration" (article-37)[5], "It cannot be denied that the legal norms change in the course of time" (article -39)[6]. On one hand, the indispensibility of change was articulated, on the other hand, the government ensured that the activity of ijtihad would not exceed the domain of revealed injunctions,[7] besides "The affairs of government were conditioned with the benefit of citizens" (article-58)[8]

As soon as the Council of Amendment of Majalla (Mecelle Ta'dil Heyeti) formed in 1921, it eventually launched a broader scope of reception. The council accepted the following principles for work: 1) not to accept any norm that contradicts with Qur'an and Sunnah; 2) to prefer the most appropriate norms to meet the needs of the modern age within the different legal schools, 3) to utilize from other legal systems provided they do not contradict the principles of fiqh for arising needs, 4) not to empower the jurists with a broader jurisdiction.[9] It is obvious that, in that stage, the Ottoman *ulamâ* came to accept even the foreign sources; they seem to be open toward foreign experience even in the field of civil law.

In the course of preparation of Majalla, and the aftermath, the State was in a military and political turmoil. In the World War I, Ottoman State lost most of its territories, and the Republic of Turkey emerged on the remains of the empire. The young State, using the very article of Majalla (article-39) "It cannot be denied that the legal norms change in the course of time", abolished the entire legal system. The legal dimension of fiqh was vested in the parliament; the process of extensive reception of the western laws was launched. The religious, ritual and ethical dimensions of fiqh were vested in a new established institution known as the Directorate of Religious Affairs (Diyanet İşleri Riyaseti/Başkanlığı).

III. Articulation of Legal Dimension of Fiqh in the Style of Civil Law Tradition

In the Republic period, for a long time, there has not been produced any aca-

4 "Âdet muhakkemdir."

5 "Nâsın isti'mali bir huccettir ki anınla amel vacip olur."

6 "Ezmanın tağayyuru ile ahkâmın tağayyuru inkâr olunamaz"

7 Article-14 "Independent reasoning is not valid in the case that a relevant revealed text does exist. [Mevrid-i nassta ictihada mesâğ yoktur]"

8 "Raiyye ya'ni tebe'a üzerine tasarruf maslahata menûttur."

9 H. Karaman, İslam Hukuk Tarihi, İstanbul: Nesil Yayınları, 1989, p. 336.

demic study on Islamic law until 1950.[10] The few that emerged in the period between 1950 and 1970 are the ones that were carried out in the departments of law and literature in some universities. In the beginning of 1970s, long after the formation of the Faculty of Theology (/divinity) and High Institutes of Islam (Yüksek İslam Enstitüleri)[11], a noticeable increase in Islamic legal studies took place. With the transformation of the status of High Institutes of Islam into the Faculties of Divinity/Theology (İlahiyat Fakülteleri) in 1982, after the commencement of Council of Turkish High Education in 1981, it created a new rubric for academic Islamic studies.

In the first half of 1980s there were a few courses of Islamic law in the curriculum of Divinity Faculties' undergraduate education. Since the students were not qualified well enough to follow Arabic literature, the textbooks were few. For instance, in legal theory (usûl al-fiqh), the available textbooks were the Turkish translations of Abdulwahhab Khallaf's *Ilm usûl al-fiqh*[12], Muhammad Abu Zahra's *Usûl al-fiqh*[13], Abdulkarem Zaydan's *al-Wajîz fî usûl al-fiqh*[14]. In the later years, Ibrahim Kâfi Dönmez's translation of Zakiyyuddin al-Shaban's U*sûl al-fiqh al-islamî*[15], Fahrettin Atar's *Fıkıh Usûlü*[16], and a few other works were added to the list of Turkish *usûl* literature.[17] In the field of Islamic substantive law (furû al-fiqh), the main textbook was the seri of Comparative Islamic Law[18] of Hayreddin Karaman[19], a pioneering figure and eminent authority of academic

10 Since I have not found any study from period before 1950, I selected that date as a starting point for the attached appendix of the dissertations.

11 As institutions of Islamic high education in Turkey in those days, there were a few High Institutes of Islam and only one Faculty of Divinity (Ankara University).

12 Abdülvehhab Hallaf, *İslam Hukuk Felsefesi*, translated by Hüseyin Atay, Ankara: Ankara Üniversitesi İlahiyat Fakültesi Yayınları, 1973.

13 Muhammed Ebu Zehra, *İslam Hukuku Metodolojisi: Fıkıh Usulü*, translated by Abdülkadir Şener, Ankara: Ankara Üniversitesi İlahiyat Fakültesi, 1973.

14 Abdülkerim Zeydan, *Fıkıh Usulü: İslam Hukuku***,** translated by Ruhi Özcan, Ankara, 1979; İstanbul, 1993.

15 Zekiyyüddin Şaban, *İslam Hukuk İlminin Esasları*, translated by. İbrahim Kâfi Dönmez, Ankara: Türkiye Diyanet Vakfı, 1990, 1994, 1996.

16 İstanbul, 1988, 1992.

17 For the current situation of legal theory (usûl al-fiqh) in modern Arab universities, look at Monique C. Cardinal "Islamic Legal Theory Curriculum: Are the Classics Thought Today?", *Islamic Law and Society*, XII: 2 (2005), 224-272.

18 For the analysis of the content of this textbook, look at Murteza Bedir, "Fıkıh to Law: Sucularization Through Curriculum", *Islamic Law and Society*, XI: 3 (2004), 378-401.

19 Hayreddin Karaman, *Mukayeseli İslam Hukuku*, vol. I, Istanbul: İrfan Yayınevi, 1974, 1978, 1982, 1986, 1991, 1996; vol. II, İstanbul: İrfan yayınevi, 1982, vol. III, İstanbul: Nesil Yayınları, 1991. An Abridged version was published in three volumes of small size paperback in Istanbul: Ensar Neşriyat, 1986.

study of Islamic law in Turkey.[20]

In 1970s and 1980s, when the first textbooks of Islamic substantive law for undergraduate students were written, the taxonomy and terminology of civil law tradition of continental Europe was adopted. By articulating the traditional structure into a new fashion, it was intended to bridge the gap between the accumulation of classical fiqh and the positive law of the land. Literature adopted such a perspective would give a chance of access to the Islamic legal literature for those whose concern is legal matters. As the first example of this perspective, Karaman designed his Comparative Islamic Law along the patterns of the civil law tradition. Meanwhile, he espoused the views of fuqaha along with their evidences comparatively. At this stage, his primary obstacle lied in finding suffiecient sources, and as such, forced him to resort to Arabic written works of scholars like Abdur-Razaq al-Sanhuri, Muhammad Abu Zahra, Ali al-Hafeef, Az-Zarqa, Subhi al-Mahmasani, Chafique Chahata, and others.[21] He benefited in Turkey from secular legal textbooks while completing his writings, endeavoring to find a compromise between them. However, on occasion, especially in the law of obligations, it led him to contradictions because the Arab-Egyptian sources were produced from the impact of French civil law tradition, while Turkish civil law was produced from the impact of Swiss-German legal tradition. Even though the French and German traditions spring from similar foundations

---

Karaman is also the author of *Fıkıh usulü: İslam hukukunun kaynakları: metodu ve felsefesi*, İstanbul: Ahmed Said Matbaası, 1964; *Hadis usulü*, İstanbul: Ahmed Said Matbaası, 1965; *İslam Hukukunda İctihad* (Ijtihad in Islamic Law), Ankara: Diyanet İşleri Başkanlığı, 1975, İstanbul: İfav, 1996; *İslam Hukuk Tarihi (History of Islamic Law)*, İstanbul: İrfan Yayınevi, no date; Nesil Yayınları, 1989; İz Yayıncılık, 1999; and many other works.

20 Uzunpostalcı, a professor of Islamic law, identifies H. Karaman as a pioneering figure. Karaman tried to provide a sound understanding of Islamic law in Turkey since the last quarter of 20th century. He has encouraged, tutored, and even trained many people who studied fiqh. (Mustafa Uzunpostalcı, "Cumhuriyet Döneminde İslam Hukuku", *İslam Hukuku Araştırmaları Dergisi*, III (2004), pp. 15-26, p. 15.) Karaman's goal was to guide the present and future generations, to launch studies, which facilitate their life. To achieve this goal, he first endeavored to develop himself as well as he could. He delivered a speech in 1965, he called for learning religion well and assessing it appropriate to current circumstances, thus he was accused of proclaiming himself as mujtahid and not following any legal school (*madhhab*less) until 1979. In deed, he was keen to share his knowledge with others, in the attempt to learn religion from its own sources, and to find accurate solutions for challenging problems. (Ibid, p. 24)

21 Middle Eastern modern classics of the field which had an impact on academic studies are works of following figures: Muhammad Qadri Pasha (1821-1888), Imam Laknawi (1848-1887), Muhammad Khudari Bag (1837-1927), Muhammad al-Tahir b. al-'Âshur (1879-1973), Abdulwahhab al-Khallaf (1888-1956), Ali al-Khafîf (1890-1978), Mahmud Shaltut (1893-1963), Muhammad Abu Zahra (1898-1974), 'Abdulqadir Udeh (1907-954), Subhi al-Mahmasani (1906-1986), Mustafa Ahmad al-Zarqa (1907-1999), Sanhuri (1895-1971), Allal al-Fasi (1910-1973), Muhammad Ma'ruf al-Dawâlibi (1909-2004), Sayyid Sabiq (1915-2000), Abu al-Wafa al-Afghani (1893-1975), Ali Abdurraziq (1883-1967), Muhammad Hamidullah (1908-2002), Mustafa al-Siba'î (1915-1964).

and principles, there are indeed some differences in their structural system. Discerning such differences among the French and German systems, along with finding a compromise requires in-depth inquiry and research, while such an endeavor proved to be too paramount for Karaman. Despite some inadeqeuacies in his works, he wrote on all of the disciplines of public and private law. His works are still consulted presently at the undergraduate level, and in many universities, even though they require amendments.

In the same vein, adopting the taxonomy of European civil law tradition, almost all legal concepts and institutions were incorporated with counterpart notions in Islamic tradition. The titles of M.A. theses, PhD. dissertations, articles and books such as "… in Islamic Law", "… in Islamic Legal Thought", or "… in Islamic Legal Literature" became widespread. In these studies, related topics were either studied for similarities between two systems, or studied in a civil law fashion. The comparison between two systems was usually conducted through Turkish secular law, sometimes via Arabic monographs that dealt with legal concepts in the terms of French legal system. In this course, the concepts and institutions of both public and private law were almost exhausted, but it cannot be said that all of these studies are successful. As to the quality, some studies were so poor and weak that they seemed almost a duplication of the positive law. However, some others were well constructed in a theoretical framework. In such monographs, the writer is aware of the basic differences between two systems. Since the researchers who have adequate tools, and as a result, managed to grasp the logical structure of both legal systems, achieved valuable studies.

The articulation of fiqh provisions in the style of civil law continued fulfledged until the middle of the 1990's. During this period sometimes, studies related to economics peaked. This was partly because of the popularity of Turgut Ozal's economic initiatives. It became popular in Islamic legal scholarship to demonstrate the economic dimension. During such a sub-trend, economic issues, such as, intrest, banking, insurance, credit, corporate entities, money, inflation, deflation, venture capital, investment, social justice, employer-employee relations, wages, labor laws, and other commerce related factors, became the subject of research, debate, forums, and symposiums.[22]

Towards the end of the 1990's the political and sociological issues surfaced. This was partly due to globalization process. The notion of democracy, human rights, freedom of expression, freedom of religion and conscience, liberties, free-elections, soveriengty, international relations, society, gender issues, education, cultural values, and the like, were fervently debated.

---

[22] "International Symposium on the Modern Problems of Islamic Commerce" [Uluslararası İslam Ticaret Hukukunun Günümüzdeki Meseleleri Kongresi (I. : 1996: Konya) ed. Mehmet Bayyiğit, Konya: Kombad Yayınları, 1997.] can be regarded as the culmination of this process.

Meanwhile, a process of transformation from fiqh to law began to operate.[23] This trend suppressed the religious and ethical dimensions, and fiqh eventually turned out to be a body of legal doctrines.[24] Indeed, "fiqh is a system of ethical and juristic norms", and as a methodology it is "a system of rules and methods that apply the principles and commands of revelation to the field of human acts".[25]

VI. Different Perceptions of Ijtihad and Impact of Orientalism

While the dominant trend in the field of Islamic substantive law was its articulation in civil law style, the primary discussion in the field of Islamic legal theory revolved around the concept of ijtihad. The debates and polemics of ijtihad dominated the religious discourse in 1970s. The centeral figure of these debates was Hayreddin Karaman. Calling for the revival of *ijtihad*, he first compiled four treatises of Ibn Taymiyya, Abdullah b. Abdulazim, Shah Waliyullah, and Ahmad Faraj Sanhuri on "ijtihad, taqlid, and talfiq"[26], and then published his dissertation titled "Ijtihad in Islamic Law". After the pro-ijtihad view surpassed and it was rooted well in 1980s, a rivalry between different perceptions of ijtihad emerged in 1990s. Here, I would like to give first the traditional framework of ijtihad activity, and then some modern criticisms.

In the traditional methodology, the highest value was ascribed to the Quran and sunna. They were the pinnacle sources. Texts of the both were termed "*nusûs*". The religious norms were derived from these sources mostly through the linguistic tools. There were three circles surrounding the methodology of interpretation. At the center, there existed the literal dimension of the revealed texts. Whenever a rule was derived from this sphere of the language, no other linguistical aspects were consulted. The second circle of interpretation dealt with the underlying meanings (*mafhoom al-nass*). Many legal norms existing in the body of classical legal rulings were derived from the aforementioned spheres of the revealed texts. Both levels of interpretation were called in usul works "*dalâlât al-nusûs*". Whenever there did not exist any ruling at the aforementioned circles, juritsts would resort to the third circle, which was turmed "*ma'nâ al-nass*". The concept of *ma'na* here is used for the '*illah* (ratio legis). This is the basis of the

---

23 For a detailed and different account of this transformation, see Murteza Bedir, "Fıkıh to Law: Sucularization Through Curriculum", *Islamic Law and Society*, XI: 3 (2004), 378-401.

24 For a further critical comment about this trend, see Eyyüp Said Kaya, "Modern Dönemde Fıkıh İlminin Temel Meseleleri", a paper delivered at the symposium *Modern Dönemde Dinî İlimlerin Temel Meseleleri*, 14-17 Nisan 2005.

25 Baber Johansen, *Contingency in a Sacred Law: Legal and Ethical Norms in Muslim Fiqh*, Leiden, 1999, 1.

26 It has been published many times with different titles since 1971. *İctihad, Taklid, Telfik üzerine Dört Risale*, translated and edited by Karaman, İstanbul, 1971, 1982, 2000.

process of analogical reasoning. When the jurist discovers the underlying *'illah* of the revealed norms, he has the opportunity of generalizing the existing norm. We call this process *ta'leel al-nass*. When the *'illah* is explicit in the revealed texts, the task of the jurist is very simple. He understands that the scope of the rule is broader than what is expressed in the text directly. However, often times, the *'illah* is not expressed in the text. In such situations, the jurist focuses on the relationship between the norm and the property causing the act to be the subject of the norm. This is called *al-munâsaba*. In such situations, the *ta'leel* process is performed in three stages: *takhreej al-manât*, *tanqeeh al-manât*, and *tahqeeq al-manât*. When the affecting property is distinguished, the jurist constitutes the scope of the norm around this property. Whatever carries the same property, yet not mentioned overtly in the text, receives the same ruling. During the process of *munasaba*, the *'illah* is related to the concept of *hikmah*, as well. However, there is a significant difference between them. *Hikmah* is not a determinant for the presence of a norm, yet the *'illah* is. This is expressed in usul works as: "*al-ahkâm tadouru ma'a 'ilalihâ lâ ma'a hikamihâ*". Meanwhile, the properties are classified into three categories, from the perspective of their affectiveness on the existence of the norm. The first category, called "*muaththir*", means that such properties are effective and legitimate. The second category, called "*mulgha*", means that they are illegitimate, thus ineffective.The third category, called "*mursal*", means that neither a positive nor a negative position is mentioned in the revelation about it. This third category is the basis of another technique of legal interpretation, called "*masâlih al-mursalah*". This technique is mostly used by the Maliki school of law. It is necessary to mention here another technique, known as "*istihsan*", which is partially related to *qiyas*, and partially to *istislah*. This tool is mostly used by Hanafis. This is roughly the hierarchy of the traditional methodology of interpretation of revelation.

Recently, the traditional methodology, and as a product of it, the classical notion of ijtihad is deemed insufficient for many thinkers and scholars alike. This was due to the fact that they observed that such an attempt does not change the classical madhhab structure, even it strengthens it. As such, it stagnates progress, devoid of producing any real solutions. Against this approach to ijtihad, there emerged voices advocating a new methodology. This approach was fostered from Fazlurrahman, Jabiri, Hasan Hanafi, Nasr Hamid Abu Zayd and the like. The adherents of this approach are not homogeneous.

This methodology reversed the traditional structure of usul of fiqh. They gave priority to *masalih al-mursalah* and the *al-maqâsid* theory over the aforementioned

circles of interpretation.[27] Their justification for such a reversal is the historical and social gap between our context and that of the revelation. They put forth that the legal injunctions of the Quran and Sunna no longer constitute an appropriate basis for an analogy. They argue that the link between the revelation and social life is no longer relevant to the modern times. This is because the situation and cases are different currently. In these circumstances, any traditional parallel does not address the current needs. That is why we must constitute a new methodology.

Since the most cited author for a modern methodology is Fazlurrahman, it's better to begin with him. Fazlurrahman, as a holder of a PhD in Islamic philosophy, and periviously trained in religious sciences, when he encountered the works of eminent orientalists, such as Goldziher, Schacht, and Wansborough, he found out they offer a picture of Islamic legacy different from the traditional one, and attempted to criticize them. He first intended to acquire the tools necessary for an adequate critique and refutation. Upon criticizing them, he actually engaged with the orientalists' views. Eventually Joseph Schacts' conception of Islamic law impacted and influenced him deeply. In his book, *Islamic Methodology in History*, he could not escape from the influence of the opinions of Schact, which the latter articulated in his work, *Origins of Muhammadan Jurisprudence*. In this work, Schact focused on the scholarship of the second century of Islam, especially the works of Shafii, since the latter, through his works, displayed the discourse of that century. Occasionaly, Schact would use the arguments of Shafii against the adherents of the other schools and at other times, he would use the arguments of the opponents. Benefitting from the scholarship of Goldziher on Muslim tradition (*hadith*) Schact focuses on the legal traditions, thus criticizing them. His using the phrase "living tradition" was for what Imam Malik called in his Muwatta "*Amal ahl al-Madinah*". He says that when Shafii arrived, Shafii criticized this notion of a living tradition, saying that it cannot be a source of law. He also proclaims that Shafii's efforts against such a notion caused an epistemelogical shift. The living tradition was replaced by the literal text of *hadith*. In addition, this event severed the law from the interplay in the society. Fazlurrahman accepts Schacts' critique of Shafii's role in critiquing the living tradition. This approach, in Turkish discourse, turned out to be a source of accusing Shafii of being the source of the stagnation of the ummah.

Because of such criticism revolving around the tradition, the traditional notion of Sunna became suspect. As a result, the conclusions derived from traditions became even more suspect. This topic accumulated numerous debates,

---

27 For a similar account of epistemological shift in usûl al-fiqh, see David Johnston, "A Turn in the Epistemology and Hermeneutics of Twentieth Century Usûl al-Fiqh", Islamic Law and Society, 11: 2 (2004), 233-282.

forums, articles, and the like, most of which were fostered from the Orientalist's approach. Their views became prevalent and profuse.

Another point recommended by Fazlurrahman was to separate ethical norms from legal ones. He conceived the legal norms of the Quran to be historical and temporal, not universal and enduring. What was universal was the ethical aim, which the legal injunctions sought to achieve. By separating such Quranic injunctions as he did, he put aside the entire classical Islamic legal legacy. Because of this, he removed all obstacles between him and the prevailing Western notions. Unfortunetly the channel, which he opened, led to the notions of the classical Orientalists, those who were prejudiced, even holding animosity with Islam.

Jabiri, Hasan Hanafi, Nasr Hamid Abu Zayd, and Muhammad Arkun were also affected and influenced by the prevailing Western thought currents. This is why their ideas were not compatible with the classical Islamic thoughts. Mostly because of this, the opinions of Fazlurrahman and the others were found to be suspicious in the traditional Muslim circles.

The only channel for contact with Orientalism was not actually through the works of Fazlurrahman and the aforementioned scholars. Another contributor to the opening of such a channel was Muhammad Hamidullah. Even though he dealt with classical Orientalists, he was well qualified in the area of religious sciences, and as such, he found many defects in the Orientalists' views. He thus eminently criticized them. What came through him to us, about Orientalism, was harmless. Many Turkish scholars became aquainted with the Orientalists' views to a certain extant through his works.

Paradoxically, Muslim scholarship benefited from the Orientalists' works by way of their research methodologies, techniques of processing knowledge, the notion of chronology and development, organizing of knowledge, and the like.

By the means of Orientalism, historicism, objectivity, subjectivity, hermeneutics, and related subjects, the attention of many scholars were grasped for a long time. Such techniques especially, were used in the discussions of legal theory and other Islamic sciences. The critiques against classical *usûl al-fiqh* were achieved through these techniques. These discussions broadened and enriched the scope of Islamic legal theory.

As a result, the literature of civil law tradition merged with substantive law (*furû' al fiqh*); while the entire accumulation of Orientalism rooted in modern social sciences amalgamated with Islamic legal theory scholarship. In addition to the aforementioned facts, studies in the areas of Islamic law and Islamic legal theory were conducted in a multi-disciplinary fashion. Therefore, the nature of contemporary legal scholarship became very hybrid and sophisticated, so that it

no longer resembles that of previous times. This portrays what Gazali once said about the *usûl* texts of his time, in the following words: "the theologian and linguist legal theorists respectively went to great lengths in incorporating into *usul* texts certain theological and linguistic topics, which essentially do not belong to its domain."[28] Consequently, the modern situation is worse. In order to penetrate into the actual text, one must be skilled in various disciplines, such as law, economics, politics, sociology, history, theology, linguistics, semiotics, semantics, hermeneutics, philosophy, religion, exegesis, tradition, logic in addition to the classical Fiqh sciences, along with the entire stock of Orientalists. How many dare to bare such a burden?

V. Internal/Domestic Discourse

While the aforementioned developments took place in the areas of usûl and furû', such a following internal discourse flowed beneth the scholarship. The debate ran between holders of views of different scales. Those who conduct studies of large scales accused those of small scales of lacking the ability of perceiving the whole picture and the core of the problem. They say that the problem does not lie where the others think it to be, it lies somewhere deeper. Their theories are lack of depth, and fall short; their perception is partial, faulty and blind. Therefore, what they offer as solutions does not touch the core of the problem. Meanwhile they consider the Islamic legal studies that adopted the style of civil law tradition as aimless efforts. Since these studies do not contain any sound solution to our real problems, they are far from being beneficial. To them, one should focus on studies of large scales, and discern the epistemological paradigms and system of values underlying both the western and Islamic traditions. Any concrete problem should be read against this background. Whatever is done without taking into account the underlying paradigms would be futile. Defenders of such approaches use a different vocabulary of grand theories. Civilization, paradigm, system of values, map of meanings, world of meanings, world systems, philosophical foundations of, epistemology, logical structure, framework, outline are some of their vocabulary. In order to discover the main parameters of the tradition, they use the tools of modern philosophy. Indeed, they seem to apply the western philosophical framework to the accumulation of the tradition. In doing so, they want to fertilize the tradition. On the other hand, those who conduct research in a narrow scale and look for urgent solutions accuse the former of being utopist, far from reality, and disguising their inability with discourse and rhetoric. This debate goes on. Since it takes for defenders of grand theories much time to find solutions of large scale, they resort to the regulations pertaining to the state of necessity in the classic fiqh until they find

---

[28] Abu Hamid Muhammad b. Muhammad al-Gazzâlî, *al-Mustasfa*, Dâr al-Fikr, vol. I, p. 10.

enduring solutions. However, the both share the same goal, even though they have different strategies of research. Both parties say that we should not lose contact with the tradition lest we not remain Muslim or lose a legitimate ground. At the same time, we have to benefit from the western experience so that we could escape from this misery. We can no longer endure the current situation. Actually, it is not reasonable to resist the western experience. However, if we lose our paradigm, what would be the criteria that guarantee the legitimacy of our solutions?

Conclusion

The deepest anxiety of Muslim thinkers is whether we can remain as Muslims if we lose the traditional ground beneath us. We cannot leave our tradition, since it functions for us as a cultural ecology. On the other hand, the current situation of tradition is not satisfying, so it requires amendments as soon as possible. The main point of dispute is the way of amending it. Although there are many efforts about how to deal with tradition, there has not formed a sound method yet. Neither the defenders of tradition nor the anti-folk are anonymous among themselves. First, what is wrong with the tradition? Before looking for any possible solution, the main problem requires identification. The debates range from the diagnosis of the problem to its solutions.

One of the main controversial points is how to use tradition and benefit from it. Even the modernists are against a radical departure from the tradition. Nevertheless, what is radical on behalf of them is their manner of benefiting from the tradition. The other controversial point is the attitude towards western culture and civilization. Western intellectual legacy and praxis constitute a main component of the contemporary discussions. Meanwhile the relationship between the Islamic tradition and the modernity constitutes the nexus of the problem. On one hand, there are efforts to pull out the potentiality of the tradition, on the other hand, efforts to build bridge between tradition and modernity.

It can be summarized as such: How should we benefit from the tradition? How should we benefit from the experience of the West? In addition, how can we compromise them with each other? Whatever the answer, we have to find such a solution that enables us to avoid this misery while remaining Muslims. All the efforts revolve around this main theme.

In recent times, Islamic scholarship seeks to find its way through such an atmosphere. It wants to protect the rights of its adherents both in local and international platforms. It wants to create an atmosphere in which Muslims could live peacefully. Against the local and international developments, its achievement cannot be estimated yet.

Throughout history all of the Islamic sciences shared the same destiny. Hence, any evolution in one discipline automatically flows to other disciplines. Since fiqh took over the task of connecting religion and life, it occupies a strategic place than the other disciplines. Now that it holds a paramount position among other disciplines, it receives high expectations from people. On the other hand, especially during trials, it becomes the focal point for criticism as well. In fact, fiqh is not a magic wand. However, as constituting a deontology for the private life of Muslims, and a ground of legitimacy for their social life, the success or lack of success of makes fiqh more crucial. Developments in the area of fiqh have the potentiality of affecting local and global issues. As proof of this, the local and global criticism against Islam is concerning fiqh-related issues. Without taking fiqh into account, the social problems of Muslims cannot be solved. This is so because the efficacy and legitimacy of the proposed solutions depends on the role that fiqh plays. Hence, the success of social policies of Muslim societies depends on the role that fiqh plays as well.

Appendix
PhD Dissertations on Islamic Law in Turkish Universities since 1950

1950-1959 Period

Köprülü, Bülent, the Nature of *Waqf* (Endowment) and the Characteristics of *Muqata'a* and *Ijaratain Waqf*s that are eligible to exchange in our current legal system and old one (Yeni Ve Eski Hukukumuzda Vakfın Mahiyeti ve Kendilerinde Tedâvül Kaabiliyeti Bulunan Mukataalı ve İcâreteynli Vakıfların Arzettiği Hususiyetler), Supervisor:, Istanbul University Faculty of Law, 1952.

Kılıçer, M. Esat, The Adherents of Ra'y in Islamic Fiqh (İslâm Fıkhınd Re'y Taraftarları), Supervisor:, Ankara University: Theology Faculty, 1957.

1960-1969 Period

Tuğ, Salih, The Genesis of Islamic Law of Tax (İslâm Vergi Hukukunun Ortaya Çıkışı), Supervisor:, Istanbul University Faculty of Literature, 1962.

Mübarek, Sait, Annulment of Marriage in Islamic Law in Comparison with Turkish and Iraqi Positive Laws (Mukayeseli Olarak İslâm, Irak ve Türk Hukuklarında Evlenmede Mutlak Butlan), Supervisor:, Ankara University Faculty of Law, 1966.

Kavakçı, Yusuf Ziya, Islamic Legal Studies in 11-12th Centuries in Karahanlılar Period in Transoxania (XI ve XII. Asırlarda Karahanlılar Devrinde Mavarâ'al-Nahr'de İslâm Hukuku Üzerindeki Çalışmalar), Supervisor:, Istanbul University Faculty of Literature Department of History, 1967.

1970-1979 Period

Şafak, Ali, The Collocation of Islamic Law (İslâm Hukukunun Tedvini), Supervisor:, Ankara University: Theology Faculty Department of Islamic Law, 1970.

Karaman, Hayreddin, Ijtihad in Islamic Law (İslâm Hukukunda İçtihad), Supervisor :, Marmara University: Theology Faculty, 1971 (1984).

Şener, Abdülkadir, The Sources of Islamic Law: Analogy, Equity and Public Welfare (İslâm Hukukunun Kaynaklarından Kıyas, İstihsan ve İstislâh), Supervisor: Prof. Dr. Mehmet Tablamacıoğlu, Ankara University: Theology Faculty Department of Sociology of Religion, 1971.

Öztürk, Osman, Majalla in the Ottoman Legal History (Osmanlı Hukuk Tarihinde Mecelle), Supervisor:, Istanbul University Faculty of Literature Department of History, 1972.

Akşit, Mustafa Cevat, Humane Principles in Islamic Penal Law (İslâm Ceza Hukukunda İnsani Esaslar Üzerine Bir Deneme), Supervisor:, Atatürk University: Theology Faculty Department of Islamic Law, 1975.

Atar, Fahrettin, The Emergence of Islamic Court System and its Operation (İslâm Adliye Teşkilatının Ortaya Çıkışı ve İşleyişi), Supervisor: Prof. Dr. Salih Tuğ, Atatürk University: Theology Faculty Department of Islamic Law, 1975.

Aktan, Hamza, The Contracts of Salam and Istisnâ' in Islamic Law of Obligations (İslâm Borçlar Hukukunda Selem ve İstisna Akidleri), Supervisor:, Atatürk University: Theology Faculty, 1976.

Özcan, Ruhi, The Obligation of Maintenance of Spouses in Islamic Law (İslâm Hukukunda Karı-Koca Nafaka Mükellefiyeti), Supervisor:, Atatürk University: Theology Faculty, 1976.

Zümrüt, Osman, The Formation of Public Opinion in Islamic Law and Developments (İslâm Hukukunda Kamuoyu Oluşumu ve Gelişmeler), Supervisor:, Ankara University: Theology Faculty, 1976.

Kılıç, Yusuf, al-Khatib al-Baghdadi and His Work "al-Faqih wa'l-Mutafaqqih" (al-Hatib al-Bağdâdi ve al-Fakih va'l-Mutafakkıh adlı Eseri), Supervisor:, Istanbul University Faculty of Literature, 1978.

1980-1989 Period

Erdoğdu, Mustafa Sabri, Islamic Institution of Zakât in the light of Structural Socio-economic Problems of Developing Societies (Gelişmekte Olan Cemiyetlerin Sosyo-Ekonomik Bünye ve Meseleleri Karşısında İslâmın Zekât Müessesesi), Supervisor:, Atatürk University: Theology Faculty, 1980.

Erbay, Celal, Maintenance of Spouse and Relatives in Islamic Law (İslâm Hukukunda Evlilik ve Hısımlık Nafakası (Kitabu'n-Nafakât ve Türk Yargı Kararları ile Mukayeseli), Supervisor:, Atatürk University: Theology Faculty, 1980.

Yavuz, Yunus Vehbi, the Methodology of Hanafite Jurists in Practice with Special Reference to al-*Mabsût* (el-Mebsût'a Göre Tatbikatta Hanefi Müctehidlerinin İçtihad Usûlü), Supervisor: Dr. Hayreddin Karaman, Uludağ University: Theology Faculty, 1981.

Dönmez, İbrahim Kâfi, the Concept of Source in Islamic Law and the Methodological Controversies of 8th Century Jurists over the Concept of Source (İslâm Hukukunda Kaynak Kavramı ve VIII. Asır İslâm Hukukçularının Kaynak

Kavramı Üzerindeki Metodolojik Ayrılıkları), Supervisor: Prof. Dr. Salih Tuğ, Atatürk University: Theology Faculty, Department of Islamic Law, 1981.

Erkal, Mehmet, Islamic Law of Tax: In the Period of Hulafâ al-Râshidîn and Umayyads (İslâm Vergi Hukuku [Hulefâ-i Râşidin ve Emeviler Devri]), Supervisor: Prof. Dr. Salih Tuğ, Atatürk University: Theology Faculty, Department of Islamic Law, 1981.

Özel, Ahmet, The Concept of Land in Islamic Law and its Legal Ramifications (İslâm Hukukunda Ülke Mefhûmu ve Hukûki Neticeleri), Supervisor: Prof. Dr. Ali Şafak, Atatürk University: Theology Faculty, Department of Islamic Law, 1981.

Baktır, Mustafa, the State of Necessity in Islamic Law (İslâm Hukukunda Zarûret Hali), Supervisor: Assoc. Prof. Zahit Aksu, Atatürk University: Theology Faculty, Department of Islamic Law, 1981.

Şekerci, Osman, Islamic Commercial Companies, Especially labour-capital based company "al-Mudâraba (İslâm Şirketler Hukuku Özellikle Emek-Sermaye Şirketi el-Mudârebe), Supervisor: , Atatürk University: Theology Faculty Department of Islamic Law, 1981.

Büyükçelebi, İsmail, Commercial Company of Inân and its Types (İslâm Hukukunda İnan Şirketi ve Nevileri), Supervisor: Assoc. Prof. Ali Şafak, Atatürk University: Theology Faculty Department of Islamic Law, 1981.

Toparlı, Recep, Irshâd al-Mulûk wa'l-Salâtîn (İrşâdü'l-Mülûk ve's-Selâtin), Supervisor: , Atatürk University: Theology Faculty, 1981.

Öztürk, Abdülvahhab, The Place of al-Hassaf in Islamic Law and His Work "Adab al-Qâdî" (İslâm Hukukunda el-Hassaf'ın Yeri ve Edebu'l-Kâdi Adlı Eseri), Supervisor: Assoc. Prof. Abdulkadir Şener, Ankara University: Theology Faculty, Department of Islamic Law, 1982.

Bardakoğlu, Ali, The Tenancy Contract (Ijârah) in Islamic Law and Modern Law (İslâm Hukukunda ve Modern Hukukta İcâre Akdi), Supervisor: Assoc. Prof. Ali Şafak, Atatürk University: Theology Faculty, Department of Islamic Law, 1982.

Döndüren, Hamdi, The Limits of Profit in Sale Contract According to Islamic Law (İslâm Hukukuna Göre Alım-Satımda Kâr Hadleri), Supervisor: Prof. Dr. Abdülkadir Şener, Ankara University: Theology Faculty, Department of Islamic Civilizations and Social Sciences, 1983.

Şener, Mehmet, Civil Liability Stemming from Usurpation and Tort/Damage (Gasb ve İtlâfdan Doğan Mâli Sorumluluk), Supervisor: Assoc. Prof. Abdülkadir Şener, Ankara University: Theology Faculty, Department of Islamic Law, 1983.

Yeniçeri, Celal, The Law of State Budget and Emergence of Related Institutions in Islamic Law (İslâmda Devlet Bütçesi Hukuku ve İlgili Müesseselerin Ortaya Çıkışı), Supervisor: Prof. Dr. Salih Tuğ, Atatürk University: Theology Faculty, Department of Islamic Law, 1983.

Bayındır, Abdülaziz, Principles of Legal Procedure in Ottomans in the Light of Shar'iyye Documents (Şer'iyye sicilleri Işığında Osmanlılarda Muhakeme Usulleri), Ph.D. Supervisor: Prof. Dr. Salih Tuğ, Atatürk University: Theology Faculty, Department of Islamic Law, 1984.

Beşer, Faruk, Social Security in Islam (İslâmda Sosyal Güvenlik), Supervisor: Assoc. Prof. Zahit Aksu, Atatürk University: Theology Faculty, Department of Islamic Law, 1985.

Uzunpostalcı, Mustafa, Abu Hanifa and His Place in Islamic Law (Ebû Hanife Hayatı ve İslâm Fıkhındaki Yeri), Supervisor:, Selçuk University: Theology Faculty, 1985.

Kıyıcı, Selahattin, Muhammad al-Azharî: His Life and Critical Edition of His Work "al-Zâhir fî Gharib Alfâz al-Imam al-Shafi'î, (Muhammed el-Ezheri Hayatı ve ez-Zâhir fi Garîbi Elfazı'l-İmami'ş-Şâfi'i adlı Eserinin Metin Tetkiki), Supervisor: Prof. Dr. Ali Şafak, Atatürk University: Theology Faculty Department of Islamic Law, 1985.

Bakkal, Ali, Hikmah, Illah and Their Relation to Social Reality in Islamic Law (İslâm Hukukunda Hikmet, İllet ve İctimâi Vâkıa Münasebetlerinin Hukuki Neticeleri), Supervisor: Assoc. Prof. Zahid Aksu, Atatürk University: Theology Faculty, Department of Islamic Law, 1986.

Çeker, Orhan, Contracts in Islamic Law (İslâm Hukukunda Akitler), Supervisor:, Selçuk University: Theology Faculty Departmaent of Islamic Law, 1986.

Aras, Mehmet Özgü, Hammad b. Abû Sulayman: His Life and Legal Opinions (Hammad b. Ebî Süleyman'ın Hayatı ve Fıkhi Görüşleri), Supervisor: Assoc. Prof. Esat Kılıçer, Selçuk University: Theology Faculty Department of Tafsir and Hadith, 1987.

Koçak, Muhsin, the Caliph Omar and His Fiqh (Hazreti Ömer ve Fıkhı), Supervisor: Assoc. Prof. Selahattin Eroğlu, Dokuz Eylül University: Theology Faculty, Department of Islamic Law, 1987.

Ağar, Mehmet Emin, Kitâb fî al-Fiqh bi-Lisân al-Turkî: Analysis, Text and Glossary (Kitabu fi'l-Fıkh bi-Lisani't-Türki: İnceleme, Metin, Sözlük), Supervisor: Prof. Dr. Mehmet Akalın, Marmara University, 1989.

Aydın, Hakkı, Molla Fanari and His Method in Fusul al-Badâi' fî Usûl al-Sharâi' (Molla Fenâri ve Fusulu'l-Bedâyi fi-Usuli'ş-Şerayi'indeki Metodu), Supervisor: Assoc. Prof. Zahit Aksu, Atatürk University: Theology Faculty, Department of Islamic Law, 1989.

Erdoğan, Mehmet, the Scope of Change in Islamic Law (İslam Hukukunda Ahkâmın Değişmesi, Supervisor: Assoc. Prof. Hayrettin Karaman, Marmara University Institute of Social Sciences, 1989.

Akyüz, Vecdi, the Development of Islamic Public Law in the Formative Period of Umayyads (Emevilerin Kuruluş Devrinde İslâm Amme Hukukunun Gelişmesi), Supervisor: Assoc. Prof. Hayreddin Karaman, Marmara University: Theology Faculty, Department of Islamic Law, 1989.

Apaydın, H. Yunus, the Annulment of Legal Transactions in Islamic Law (İslâm Hukukunda Hukuki İşlemlerin Hükümsüzlüğü), Supervisor: Assoc. Prof. Selahattin Eroğlu, Ankara University: Theology Faculty Department of Islamic Law, 1989.

1990-1999 Period

Kaya, Ali, The Compensation of Physical Damages in Islamic Law (İslâm Hukukunda Cismani Zararların Tazmini), Supervisor: Assoc. Prof. Hamdi Döndüren, Uludağ University: Theology Faculty Department of Tafsir and Hadith, 1991.

Dağcı, Şamil, Injurious Actions against Persons and their Penalties (İslâm Hukukunda Şahıslara Karşı Müessir Fiiller ve Cezaları), Supervisor: Assoc. Prof. İbrahim Çalışkan, Ankara University: Theology Faculty Department of Basic Islamic Sciences, 1992.

Gökmenoğlu, Hüseyin Tekin, Personal Rights in Islamic Law (İslâm Hukukunda Şahsiyet Hakları), Supervisor: Assoc. Prof. İbrahim Çalışkan, Ankara University: Theology Faculty Department of Tafsir and Hadith, 1991.

Erdem, Fazıl Hüsnü, the Concept of Justice in Islamic Law and its Reality (İslam Hukukunda Adalet Kavramı ve Olgusu), Supervisor: Prof. Dr. Niyazi Öktem, Istanbul University, 1992.

Fendoğlu, Hasan Tahsin, The Concept and Reality of Property among the Fundamental Rights and Liberties in Ottoman Law (Osmanlı Hukukunda Temel Hak ve Özgürlükler İçinde Mülkiyet Kavram Ve Olgusu), Supervisor: Prof. Dr. Niyazi Öktem, Istanbul University Kamu Hukuku Anabilim Dalı, 1992.

Akman, Ahmet, The Compensation Stemming from Contractual Liability in Islamic Law (İslâm Hukukunda Akdi Mesuliyetten Doğan Tazminat), Supervisor: Prof. Dr. Hayreddin Karaman, Marmara University: Theology Faculty, 1992.

Koca, Ferhat, Restrictive Interpretation in Islamic Legal Methodology (İslâm Hukuk Metodolojisinde Tahsis), Supervisor: Prof. Dr. İbrahim Kâfi Dönmez, Marmara University: Theology Faculty, Department of Islamic Law, 1993.

Köse, Saffet, Defrauding the Law in Islamic Law (Hîle-i shar'iya) (İslâm Hukukunda Kanuna Karşı Hile: [Hile-i şer'iyye]), Supervisor: Prof. Dr. Mehmet Erkal, Marmara University: Theology Faculty, Department of Islamic Law, 1993.

Kayapınar, Hüseyin, Venturing Land through Partnership and Rent in Islamic Law (İslâm Hukukunda Ortaklık Ve Kira Yoluyla Arazinin İşletilmesi), Supervisor: Prof. Dr. Hayreddin Karaman, Marmara University: Theology Faculty, Department of Islamic Law, 1993.

Dalgın, Nihat, Insurance in Islamic Law (İslâm Hukukuna Göre Sigorta), Supervisor: Assoc. Prof. Muhsin Koçak, Ondokuz Mayıs University: Theology Faculty, Department of Islamic Law, 1994.

Keleş, Ekrem, Ijma as a Source of Islamic Jurisprudence (İslam Hukukunun Kaynağı Olarak İcma), Supervisor: Prof. Dr. Esat Kılıçer, Ankara University, Institute of Social Sciences, 1994

Acar, H. İbrahim, Fiscal Rights Attributed to Women in Islamic Family Law (İslâm Aile Hukukunda Kadınlara Tanınan Mali Haklar), Supervisor: Prof. Dr. Hamza Aktan, Atatürk University: Theology Faculty, Department of Islamic Law, 1994.

Yaşar, Ahmet, The Right to Revoke the Contract on the Ground of Defect of the Sold Item and Its Legal Results (İslâm Borçlar Hukukuna Göre Satım Akdinde Ayıp Muhayyerliği ve Hukuki Sonuçları), Supervisor: Prof. Dr. Abdülkadir Şener, Dokuz Eylül University: Theology Faculty, Department of Tafsir and Hadith, 1994.

Yayla, Mustafa, Human Rights and Equality in Islamic Law (İslâm Hukukunda Insan Hakları Ve Eşitlik), Supervisor: Prof. Dr. Hayreddin Karaman, Marmara University: Theology Faculty, Department of Islamic Law, 1994.

Cici, Recep, Islamic Legal Studies in Ottomans from the Foundation to the end of Fatih Era (Kuruluştan Fatih Devrinin Sonuna Kadar Osmanlılarda Fıkıh Çalışmaları), Supervisor: Prof. Dr. İbrahim Kâfi Dönmez, Marmara University: Theology Faculty, Department of Islamic Law, 1994.

Yaran, Rahmi, Resistance of the Debtor and the Creditor in Islamic Law (İslâm Hukukunda Borçlunun ve Alacaklının Temerrüdü), Supervisor: Prof. Dr. Fahrettin Atar, Marmara University: Theology Faculty, Department of Islamic Law, 1994.

Güler, Mehmet Nuri, The Emergence of Islamic Law of Administration (The Formation, Operation and Control of Administration in the Time of Prophet and Patriarchal Caliphs) (İslâm İdare Hukukunun Ortaya Çıkışı [Hz. Peygamber ve Raşit Halifeler Dönemlerinde İdarenin Kuruluşu, İşleyişi ve Denetlenmesi]), Supervisor: Prof. Dr. Cihat Tunç, Erciyes University: Theology Faculty, Department of Islamic Law, 1995.

Türkmen, Ali, Islamic Law of Communication (İslâm İletişim Hukuku), Supervisor: Assoc. Prof. Muhsin Koçak, Ondokuz Mayıs University: Theology Faculty, Department of Islamic Law, 1995.

Özen, Şükrü, The Rationalization of Islamic Legal Thought: from the Beginning to the Middle of Fourth Century (İslâm hukuk düşüncesinin aklileşme Süreci: Başlangıçtan Hicri IV. Asrın Ortalarına Kadar), Supervisor: Prof. Dr. Hayreddin Karaman, Marmara University: Theology Faculty, Department of Islamic Law, 1995.

Beki, Abdülaziz, Paper Assets in Islamic Law and Turkish Positive Law (İslâm Hukuku ve Türk Mevzu Hukukunda Kıymetli Evrak), Supervisor: Prof. Dr. Halit Ünal, Erciyes University: Theology Faculty, Department of Islamic Law, 1995.

Ünalan, Abdülkerim, Right and its Abuse in Islamic Law (İslâm Hukuku Açısından Hak ve Hakkın Kötüye Kullanılması), Supervisor: Prof. Dr. Abdülkadir Şener, Dokuz Eylül University: Theology Faculty Department of Tafsir and Hadith, 1995.

Aslan, Nasi, Notebooks issue 81, dated Hijri 1084 and issue 84, dated 1087 of Shar'iya Documents of Kayseri and their analysis according to Islamic Law (Kayseri Şer'iyye Sicillerindeki Hicri 1084/1087 Tarihli 81 ve 84 Numaralı Defterler ve İslâm Hukuku Açısından Tahlili), Supervisor: Prof. Dr. Zahit Aksu, Erciyes University: Theology Faculty, Department of Islamic Law, 1995.

Aybakan, Bilal, the Fulfillment of Obligations in Islamic Law (İslâm Hukukunda Borçların İfası), Supervisor: Prof. Dr. İbrahim Kâfi Dönmez, Marmara University: Theology Faculty, Department of Islamic Law, 1996.

Yaşaroğlu, M. Kamil, the Codification of Islamic Penal Law in Pakistan (Pakistan'da İslâm Ceza Hukukunun Kanunlaştırılması), Supervisor: Prof. Dr. Fahrettin Atar, Marmara University: Theology Faculty, Department of Islamic Law, 1996.

Yaman, Ahmet, International Relations Based on Peace in Islamic Law (İslâm Hukukunda Barış Temeline Dayanan Devletlerarası İlişkiler), Supervisor: Prof. Dr. Salih Tuğ, Marmara University: Theology Faculty, Department of Islamic Law, 1996.

Yıldız, Kemal, Non-contractual Liability that not Based on Fault in Islamic Law (İslâm Hukukunda Kusura Dayanmayan Akit Dışı Sorumluluk), Supervisor: Prof. Dr. İbrahim Kâfi Dönmez, Marmara University: Theology Faculty, Department of Islamic Law, 1996.

Arı, Abdüsselam, The Contradiction between the Consent and the Expressed Intention (İslam Hukuku'nda Rıza ile İrade Beyanı Arasında Uyumsuzluk),

Supervisor: Prof. Dr. Mehmet Erkal, Marmara University Institute of Social Sciences, 1996.

Gedikli, Fethi, the Corporation of Mudaraba in the Ottoman Shar'iyya Documents of 16th and 17th Centuries: the Case of Galata (XVI ve XVII. asır Osmanlı Şer'iyye Sicillerinde Mudarebe Ortaklığı Galata Örneği), Supervisor: Prof. Dr. Mehmet Akif Aydın, Marmara University Faculty of Law: Department of Public Law, 1996.

Yıldırım, Mustafa, Deposit in Islamic Law of Obligations (İslâm Borçlar Hukukunda Vedia), Supervisor: Prof. Dr. Abdülkadir Şener, Dokuz Eylül University: Theology Faculty Departmaent of Islamic Law, 1996.

Orhan, Mehmet, the Critical Edition and the Analysis of Ali Nâtifî's work "al-Ajnâs wa'l-Furûq" (Ali Nâtifi'nin "el-Ecnas ve'l-Furûk" adlı Eserinin Tahkik ve Tahlili), Supervisor: Prof. Dr. Halit Ünal, Erciyes University: Theology Faculty, Department of Islamic Law, 1996.

Yılmaz, Ahmet, Land Venturing Partnership in Islamic Law (İslam Hukukunda Muzaraa (İslam Hukukunda Ortaklıkla Arazi İşletilmesi), Supervisor: Prof. Dr. Servet Armağan, Harran University, Institute of Social Sciences, 1996.

Köse, Murtaza, Public Corporations in Islamic law (İslam Hukukunda Anonim Ortaklıklar), Supervisor: Prof. Dr. Hamza Aktan, Atatürk University, Institute of Social Sciences, 1996.

Benli, Abdullah, Immaterial Compensation in Islamic Law (İslâm Hukukunda Mânevi Tazminat), Supervisor: Assoc. Prof. H. Yunus Apaydın, Erciyes University: Theology Faculty, Department of Islamic Law, 1997.

Gürkan, Menderes, The Formation of Islamic Legal Methodology and the Role of al-Shafii, (İslâm Hukuku Metodolojisinin Oluşumu ve Şafii'nin Yeri), Supervisor: Assoc. Prof. H. Yunus Apaydın, Erciyes University: Theology Faculty, Department of Islamic Law, 1997.

Özer, Salim, The Critical Edition and Analysis of Debbusi's Work "al-Asrâr fi al-Usûl wa'l-Furû'", (Debbusi'nin el-Esrar fi'l-Usûl ve'l-Furû' adlı Eserinin Tahkik ve Tahlili), Supervisor: Assoc. Prof. H. Yunus Apaydın, Erciyes University: Theology Faculty, Department of Islamic Law, 1997.

Kahraman, Abdullah, the Contract of Guarantee in Islamic Law and its Current Practice (İslâm Borçlar Hukukunda Kefalet Sözleşmesi ve Günümüzdeki Tatbikatı), Supervisor: Prof. Dr. Hayreddin Karaman, Marmara University: Theology Faculty Department of Basic Islamic Sciences, 1997.

Günay, Hacı Mehmet, Public Properties in Islamic Law (İslâm Hukukunda Kamu Malları), Supervisor: Prof. Dr. Mehmet Erkal, Marmara University: Theology Faculty, Department of Islamic Law, 1997.

Menekşe, Ömer, the Crime of Theft and its Punishment in Ottoman State in 17th and 18th Centuries (XVII ve XVIII. yüzyılda Osmanlı Devleti'nde Hırsızlık Suçu ve Cezası), Supervisor: Prof. Dr. Ali Bardakoğlu, Marmara University: Theology Faculty, Department of Islamic Law, 1998.

Boynukalın, Ertuğrul, the Problem of Teleology in Islamic Law (İslâm Hukukunda Gaye Problemi), Supervisor: Prof. Dr. Hayrettin Karaman, Marmara University: Theology Faculty, Department of Islamic Law, 1998.

Uslu, Rıfat, The Power of the President to Determine the Crime and its Punishment in Islamic Law (İslam Hukukunda Devlet Başkanının Suç ve Ceza Belirleme Yetkisi), Supervisor: Prof. Dr. Mustafa Uzunpostalcı, Selçuk University, Institute of Social Sciences, 1998.

Aygün, Dursun, the Expropriation in Islamic Law (İslam Hukukunda İstimlâk), Supervisor: Prof. Dr. Mustafa Uzunpostalcı, Selçuk University, Institute of Social Sciences, 1998.

Paçacı, İbrahim, Civil Sanctions in Islamic Law, (İslam Hukukunda Medenî Müeyyideler), Supervisor: Prof. Dr. Salih Tuğ, Marmara University Institute of Social Sciences, 1998.

Tanrıverdi, Hasan, the Contract of Deputation in Islamic Law and Modern Law (İslâm Hukukunda ve Modern Hukukta Vekalet Akdi), Supervisor: Prof. Dr. Servet Armağan, Harran University: Theology Faculty Department of Islamic Law, 1998.

Yiğit, Yaşar, the Enforcement of Punishments in Islamic Penal Law (İslâm Ceza Hukukunda Cezaların Yürürlüğü), Supervisor: Prof. Dr. Hamdi Döndüren, Uludağ University: Theology Faculty Departmaent of Islamic Law, 1998.

Keleş, Ali, The Concept of Money in Islam (İslam'da Para Kavramı), Supervisor: Prof. Dr. Hamdi Döndüren, Uludağ University Institute of Social Sciences, 1998.

Ayengin, Tevhit, the Relationship between Social Reality and Revealed Texts from the perspective of the problem of Origin in Law (Hukukta Köken Problemi Açısından Sosyal Realite Nass İlişkisi), Supervisor: Prof. Dr. Beşir Gözübenli, Atatürk University: Theology Faculty Department of Basic Islamic Sciences, 1999.

Kılıç, Muharrem, Literal Interpretation of Revealed Texts in Islamic Legal Methodology (İslam Hukuk Metodolojisinde Nassların Lafzî Yorumu), Supervisor: Prof.Dr. Fahrettin Atar, Marmara University Institute of Social Sciences, 1999.

Bostancı, Ahmet, the Status of Non-Muslims in Islamic Law (in the Practice of the Prophet) (İslâm Hukukunda Gayri Müslimler [Hz. Peygamber Devri Uygula-

ması Temelinde]), Supervisor: Prof. Dr. Hayreddin Karaman, Marmara University: Theology Faculty, Department of Islamic Law, 1999.

Beroje, Sahip, Burden of Proof and Dominant Principles in the Islamic Law of Criminal Procedure (İslam Ceza Muhakemesi Hukukunda Beyyine Külfeti ve İspata Hakim Esaslar), Supervisor: Prof. Dr. Hamza Aktan, Atatürk University, Institute of Social Sciences, 1999.

Çolak, Abdullah, Extenuating Circumstances in Islamic Criminal Law (İslam Ceza Hukukunda Hafifletici Sebepler), Supervisor: Prof. Dr. Mustafa Uzunpostalcı, Selçuk University, Institute of Social Science, 1999.

Bilgili, İsmail, The Sale of Non-existent Items in Islamic Law (İslam Hukukunda Ma`dumun Satışı), Supervisor: Prof. Dr. Orhan Çeker, Selçuk University, Institute of Social Sciences, 1999.

Duman, Ali, The Freedom of Political Thought in Islamic Law (İslam Hukukuna göre Siyasi Fikir Hürriyeti), Supervisor: Assoc. Prof. Hüseyin Tekin Gökmenoğlu, Selçuk University, Institute of Social Sciences, 1999.

Türcan, Talip, The State Sovereignty and Hence Originating Powers in Islamic Law -A Comparative Study with the Western and Turkish Legal Systems (İslam Hukukunda Devletin Egemenlik Unsuru ve Egemenlikten Kaynaklanan Yetkileri -Batı ve Türk Hukuku ile Mukayeseli bir İnceleme), Supervisor: Prof. Dr. İbrahim Çalışkan, Ankara University, Institute of Social Sciences, 1999.

Pekcan, Ali, the Problem of Teleological Zaruriyyât, Hâjiyyat, and Tahsiniyyât in Islamic Legal Theory (İslam Hukuku Usûlünde Zâruriyyât, Hâciyyât ve Tâhsiniyyât Meselesi), Supervisor: Prof. Dr. Orhan Çeker, Selçuk University, Institute of Social Sciences, 1999.

Acar, İsmail, A Comparative Study on Adultery and its Punishment in Islamic Law (İslam Hukukunda Zina Suçu ve Cezası Üzerine Karşılaştırmalı bir İnceleme), Supervisor: Prof. Dr. Abdulkadir Şener, Dokuz Eylül University, Institute of Social Science, 1999.

Koşum, Adnan, the Causes Aggravating Punishment in Islamic Law (İslam Hukukunda Cezayı Ağırlaştırıcı Nedenler), Supervisor: Prof.Dr. Mehmet Erkal, Marmara University Institute of Social Sciences, 1999.

Boynukalın, Mehmet, The Need for the Renewal of Usûl al-Fiqh and Related Debates (Fıkıh Usûlünde Yenilenme İhtiyacı ve Ortaya Çıkardığı Tartışmalar), Supervisor: Prof. Dr. Mehmet Erkal, Marmara University Institute of Social Sciences, 1999.

Haçkalı, Abdurrahman, Izz al-Dîn b. Abd al-Salâm's Theory of Maslaha (İzzuddin b. Abdisselâm'da Maslahat Nazariyesi), Supervisor: Assoc. Prof. Muhsin Koçak, Ondokuz Mayıs University: Theology Faculty, Department of Basic Islamic Sciences, 1999.

Altıntaş, Ömer Faruk, the Methods of Judicial Interpretation in the Application of Turkish and Islamic Criminal Law, (Türk Ve İslam Hukukuna Göre Cezai Kuralların Anlam Bakımından Uygulanmasında Yorum Vasıtaları), Supervisor: Prof. Dr. Muhsin Koçak, On Dokuz Mayıs University, 1999.

Şen, Temel, Freedom of Thought and Belief in Islamic Law (İslam Hukukunda Fikir ve İnanç Hürriyeti), Supervisor: Prof. Dr. Muhsin Koçak, On Dokuz Mayıs University, 1999.

2000-2006 Period

Topal, Şevket; the Notion of Possession in Islamic Law (İslam Hukukunda Zilyedlik), Supervisor: Prof. Dr. Muhsin Koçak, Ondokuz Mayıs University, 2000.

Duran, Ahmet, the Notion of Avowal and its Effect in Islamic Law (İslâm Hukukunda İkrar ve Hükmü), Supervisor: Prof. Dr. Servet Armağan, Harran University: Theology Faculty, Department of Islamic Law, 2000.

Macit, Yüksel, Mutezilites' Conception of Usûl al-Fiqh (Mu'tezile'nin Fıkıh Usulü Anlayışı), Supervisor: Prof. Dr. Halit Ünal, Erciyes University: Theology Faculty Departmaent of Islamic Law, 2000.

Tüfekçi, İbrahim, the Expertise in Islamic Adjudication in the Light of Shar'iyya Documents (Şer`iyye Sicilleri Işığında İslam Yargılama Hukukunda Bilirkişilik), Supervisor: Prof.Dr. Ali Bardakoğlu, Marmara University Institute of Social Sciences, 2000.

Hacak, Hasan, the Analysis of the Concept of Right in the Classical Sources of Islamic Law (İslâm Hukukunun Klasik Kaynaklarında Hak Kavramının Analizi), Supervisor: Prof. Dr. İbrahim Kâfi Dönmez, Marmara University: Theology Faculty, Department of Islamic Law, 2000.

Şahin, Muzaffer, Unjust Enrichment in Islamıc Law (İslam Hukukunda Sebepsiz Zenginleşme), Supervisor: Prof. Dr. İbrahim Çalışkan, Ankara University, Institute of Social Sciences, 2000.

Erturhan, Sabri, the Complicity in the Islamic Penal Law (İslam Ceza Hukukunda Suça İştirak), Supervisor: Assoc. Prof. Hüseyin Tekin Gökmenoğlu, Selçuk University, Institute of Social Sciences, 2000.

Çalış, Halit, Restrictions to Private Property in Islamic Law (İslam Hukukunda Özel Mülkiyete Getirilen Sınırlamalar), Supervisor: Prof. Dr. Mustafa Uzunpostalcı, Selçuk University, Institute of Social Sciences, 2001.

Çırak, Hasan Hayri, Legal Personality in Islamic Law (İslam Hukukunda Hükmi Şahsiyet (Tüzel Kişilik), Supervisor: Prof. Dr. Beşir Gözübenli, Atatürk University, Institute of Social Sciences, 2001.

Sağlam, Hadi, Life Insurance in Islamic Law (İslam Hukuku Açısından Hayat Sigortası), Supervisor: Prof. Dr. Beşir Gözübenli, Atatürk University, Institute of Social Sciences, 2001.

Demir, Bayram, The Principle of Legality in Islamic Criminal Law (İslam Ceza Hukukunda Kanunilik İlkesi), Supervisor: Prof. Dr. Mustafa Baktır, Atatürk University, Institute of Social Sciences, 2001.

Bilgin, Vejdi, The Effects of the Social and Cultural Conditions on Juridical Provisions (A sociological inquiry on the social sources of religious law) (Sosyokültürel Şartların Fıkhi Hükümlere Etkisi (Dini Hukukun Toplumsal Kaynakları Üzerine Sosyolojik Bir Araştırma), Supervisor: Assist. Prof. Erkan Perşembe, Dokuz Eylül University, Institute of Social Sciences, 2001.

Kenanoğlu, Macit, Ottoman *Millet* System and the Status of Non-Muslim Subjects (1453-1856) (Osmanlı Devletinde Millet Sistemi ve Gayrimüslimlerin Hukuki Statüleri (1453-1856)), Supervisor: Mehmet Akif Aydın, Marmara University, Institute of Social Sciences: Public Law, 2001.

Sargın, İzzet, the State and its Functions in History of Islamic Law (İslam Hukuk Tarihinde Devlet Ve Fonksiyonları), Supervisor: Prof. Dr. Beşir Gözübenli, Atatürk University, Institute of Social Sciences, 2001.

Ünsal, Ahmet, Utility in Islamic Law (İslam Hukukunda Fayda), Supervisor: Prof. Dr. İbrahim Çalışkan, Ankara University, Institute of Social Sciences, 2001.

Pamir, Aybars, the Concept of Sovereignty in Islamic Law and Ottoman Empire (İslam Hukukun`da ve Osmanlı Devleti`nde Egemenlik Anlayışı), Supervisor: Gülnihal Bozkurt, Ankara University, Institute of Social Sciences, 2001.

Aydın, Aytaç, Financial Market and Instruments according to Islamic Law (İslam Hukuku Açısından Mali Piyasa ve Mali Piyasa Araçları), Supervisor: Prof. Dr. Orhan Çeker, Selçuk University, Institute of Social Sciences, 2001.

Canbulat, Mehmet, The Problem of the Closure of the Gate of Ijtihad in Islamic Law (İslam Hukukunda İctihad Yapısının Kapanmışlığı Meselesi), Supervisor: Prof. Dr. Orhan Çeker, Selçuk University, Institute of Social Sciences, 2001.

Başoğlu, Tuncay, Debates on Ratio Legis in Fifth Century Works of Islamic Legal Theory (Hicri V. Asır Fıkıh Usulü Eserlerinde İllet Tartışmaları), Supervisor: Prof. Dr. İbrahim Kâfi Dönmez, Marmara University: Theology Faculty, Department of Islamic Law, 2001.

Kaya, Eyyüp Said, Legal Reasoning after the Formation of Legal Schools (Mezheblerin Teşekkülünden Sonra Fıkhi İstidlâl), Supervisor: Prof. Dr. Ali Bardakoğlu, Marmara University: Theology Faculty, Department of Islamic Law, 2001.

Songur, Haluk, the Theory of Participating in a Crime in Islamic Penal Law: A Comperative Study (İslâm Ceza Hukukunda Suça İştirak Teorisi: Mukayeseli Bir İnceleme), Supervisor: Assistant Prof. Hasan Ali Görgülü, Süleyman Demirel University Department of Basic Islamic Sciences, 2001.

Bilgin, Vejdi; the Effects of the Social and Cultural Conditions on Juridical Decisions: A Sociological Approach to the Social Sources of Religious Law (Sosya-Kültürel Şartların Fıkhî Hükümlere Etkisi -Dinî Hukukun Toplumsal Kaynakları Üzerine Sosyolojik Bir Yaklaşım-), Supervisor: Assistant Prof. Erkan Perşembe, On Dokuz Mayıs University, 2001.

Genç, Mustafa, Marriage Guardianship in Islamic Law (İslâm Hukukunda Evlendirme Velayeti), Supervisor: Prof. Dr. Yunus Vehbi Yavuz, Uludağ University: Theology Faculty, Department of Islamic Law, 2002.

Şahin, Osman; Methodology of Fatwa in Islamic Jurisprudence (İslam Hukukunda Fetva Usulü), Supervisor: Prof. Dr. Muhsin Koçak, On Dokuz Mayıs University, 2002.

Shaban, Fekri M. E. M., the Crime of Hirâba (Offenses Against the Public Security) (İslâm Hukukunda Hirâbe (Eşkiyalık) Suçu), Supervisor: Prof. Dr. Fahrettin Atar, Marmara University: Theology Faculty, Department of Islamic Law, 2002.

Maşalı, Münteha, Capital Punishment in Comparative Law and Its Assessment from the point of view of Islamic Law (Mukayeseli Hukukta Ölüm Cezası ve İslam Hukuku Açısından Değerlendirilmesi), Supervisor: Prof.Dr. Ali Bardakoğlu, Marmara University Institute of Social Sciences, 2002.

Atmaca, Talip, Criminal Capacity in Islamic Law (İslâm Hukukunda Ceza Ehliyeti), Supervisor: İbrahim Çalışkan, Ankara University Institute of Social Sciences, 2002.

Mutaf, Abdülmecit, Women in Balıkesir in the 17th Century (XVII. Yüzyılda Balıkesir'de Kadınlar), Supervisor: Prof. Dr. Mehmet Şeker, Dokuz Eylül University, Institute of Social Sciences, 2002.

Çevik, Mümin, Ijtihad and Strict Loyalty to Legal Schools in Islamic Legal History and Ottoman Practice (İslam Hukuku'nda İçtihad, Mezhep Taassubu ve Osmanlı Uygulaması), Supervisor: Assoc. Prof. Mehmet Tevfik Özcan, Istanbul University, Institute of Social Sciences: Public Law, 2002.

Yasdıman, Necla, Analysis and Review of Prophetic Traditions Pertaining to Family Law and the Perception of Eponyms of Legal Schools (Aile Hukuku ile Ilgili Hadislerin Tahlili, Tenkidi ve Mezhep İmamlarının Anlayışları), Supervisor: Prof. Dr. M. Cemal Sofuoğlu, Dokuz Eylül University, Institute of Social Sciences, 2002

Aktaş, Necati, The Shari`ah Court Registers of Uskudar Pertaining the years 1178-1179 AH (Üsküdar`a ait H. 1178-1179 Tarihli Şer`Iyye Sicil Defteri), Supervisor: Prof. Dr. Mücteba İlgürel, Marmara University, Institute of Turkish (Turkiyat) Studies, 2002.

Özket, Hasan, Studies of Islamic Legal Theory in 19th Century (1800-1923) (XIX. Asır İslam Hukuk Usûlü Calışmaları (1800-1923), Supervisor: Assoc. Prof. Halil İbrahim Acar, Atatürk University, Institute of Social Sciences, 2003.

Çolak, Mücahit, Factors Affecting the Criminal Legal Capacity in Islamic Law (İslam Hukukunda ceza ehliyetini etkileyen durumlar), Supervisor: Prof. Dr. Davud Yaylalı, Atatürk University, Institute of Social Sciences, 2003.

Ayan, Muammer, Benefiting from the Controversies of Muslim Jurists in Solving Contemporary Problems (Günümüzde İslam Hukukçularının ihtilaflarından faydalanma), Supervisor: Prof. Dr. Mustafa Uzunpostalcı, Selçuk University Institute of Social Sciences, 2003.

Yıldızlı, İsmail, Legal Representation in Islamic Law (İslam Hukukunda hukuki temsil), Supervisor: Prof. Dr. Mustafa Uzunpostalcı, Selçuk University, Institute of Social Sciences, 2003.

Demir, Halis, The Patriarchal Caliphs' Era from the Point of View of Limiting the Power of State (Devlet kudretinin sınırlanması problemi açısından Raşit Halifeler Dönemi), Supervisor: Prof. Dr. Hamza Aktan, Atatürk University, Institute of Social Sciences, 2003.

Güneş, Ahmet, The Freedom of Thought and Belief in Muslim Public Law (İslam Kamu Hukukunda Fikir ve İnanç Hürriyeti), Supervisor: Prof. Dr. Beşir Gözübenli, Atatürk University, Institute of Social Sciences, 2003.

Pala, Ali İhsan, Interpretation of Positive and Negative Commands in Islamic Legal Methodology (İslam Hukuk Metodolojisinde Emir ve Nehyin Yorumu), Supervisor: Prof. Dr. Beşir Gözübenli, Atatürk University, Institute of Social Sciences, 2003.

Kâşif Hamdi Okur, The Institution of Âqilah and Its Assessment from the point of view of Social Security (İslâm Hukukunda Âkile Kurumu Ve Sosyal Güvenlik Açısından Değerlendirilmesi), Supervisor: İbrahim Çalışkan, Ankara University Institute of Social Sciences, 2003.

Erdem, Sami, The Concepts of Usûl al-Fiqh in the Ottoman Legal Thought after Tanzimat and Modern Approaches (Tanzimat Sonrası Osmanlı Hukuk Düşüncesinde Fıkıh Usulü Kavramları Ve Modern Yaklaşımlar), Supervisor: Prof. Dr. Salih Tuğ, Marmara University: Theology Faculty Department of Islamic Law, 2003.

Esen, Hüseyin, Criminal Liability in Islamic Law (İslam Hukukunda Cezâî Sorumluluk), Supervisor: Prof.Dr. Celal Yeniçeri, Marmara University Institute of Social Sciences, 2003.

Yargı, Mehmet Ali, The Place of the Mashhûr Tradition in Hanafi Legal Theory (Hanefi Fıkıh Doktrininde Meşhur Sünnetin Yeri), Supervisor: Prof. Dr. Fahrettin Atar, Marmara University: Theology Faculty Department of Islamic Law, 2003.

Taş, Aydın, Muhammad b. Hasan al-Shaibani's Conception of Legal Theory (Muhammmed b. el-Hasan eş-Şeybani'nin Hukuk Anlayışı [Usul Anlayışı]), Supervisor: Prof. dr. Yunus Apaydın, (Erciyes University, Institute of Social Sciences, 2003.

Ceylan, Metin; The Status of Water in Islamic Law (İslam Hukukunda Suların Statüsü), Supervisor: Prof. Dr. Muhsin Koçak, On Dokuz Mayıs University, 2003.

Yılmaz, Metin; Islamic Police Organization -Its Formation and Function (İslam Şurta Teşkilatı -Ortaya Çıkışı ve İşleyişi), Supervisor: Prof. Dr. M. Zeki Terzi, On Dokuz Mayıs University, 2003.

Bayındır, Servet, The Place of Interest-free Bank Interactions in Islamic Law (Faizsiz Bankacılık İşlemlerinin İslam Fıkhındaki Yeri), Supervisor: Prof. Dr. Celal Yeniçeri, Marmara University Institute of Social Sciences, 2004.

Yalçın, İsmail, The Application of Islamic Law in Malaysia: New Developments and Problems (Malezya'da İslam Hukuku Uygulamaları: Yeni Gelişmeler ve Problemler [1981-2003]), Supervisor: Prof.Dr. Vecdi Akyüz, Marmara University Institute of Social Sciences, 2004.

Özdirek, Recep, Constraints to Freedom of Contract in Islamic Law (İslam Hukukunda Akit Hürriyetini Sınırlayan Durumlar), Supervisor: Prof. Dr. Celal Erbay, Marmara University Institute of Social Sciences, 2004.

Kozalı, Abdurrahim, Analogy and Preference and their Relation to the Natural Law (Kıyas, İstihsan ve Doğal Hukuk İlişkisi), Supervisor: Hamdi Döndüren, Uludağ University Institute of Social Sciences, 2004.

Çavuşoğlu, Ali Hakan, Maliki Legal School of Iraq: (III.-V/IX.-XI. Centuries) (Irak Mâlikî Ekolü [III.-V/IX.-XI.yy]), Supervisor: Prof. Dr. Mehmet Erdoğan, Marmara University Institute of Social Sciences, 2004.

Bakkaloğlu, M.K. Abdussamet, the Developments in Family Law in Syria and its Ottoman Influences (Suriye'de Aile Hukuku Alanındaki Gelişmeler ve Bunlar Üzerinde Osmanlı Tesirleri), Supervisor: Prof.Dr. Salih Tuğ, Marmara University Institute of Social Sciences, 2005.

Habergetiren, Ömer Faruk, Capital and Capital Movements in Islamic Law (İslam Hukuku'nda Sermaye ve Sermaye Hareketleri), Supervisor: Assist. Prof. Mehmet Nuri Güler, Harran University, Institute of Social Sciences, 2005.

Hira, Ayhan, The Jurisprudence of Shaih Badr al-Dîn (Şeyh Bedreddin'in Fıkıhçılığı), Supervisor: Prof. Dr. Vecdi Akyüz, Marmara University Institute of Social Sciences, 2006.

Koyuncu, Nuran, Shura in Islamic Law and Ottoman Praxis (İslam Hukuku`nda ve Osmanlı Uygulamasında Şura), Supervisor: Gül Akyılmaz, Selçuk University, Institute of Social Sciences, Public Law: Turkish Legal History, 2006.