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**THE DOCTRINE OF CERTAINTY IN THE
ISLAMIC METHODS OF INFERENCE**

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**JABATAN FIQH DAN USUL AL-FIQH
DIVISION OF SHARI'AH
ACADEMY OF ISLAMIC STUDIES
UNIVERSITY OF MALAYA
KUALA LUMPUR
2000**



وَالصَّلَاةُ وَالسَّلَامُ عَلَى خَاتَمِ النَّبِيَّاتِ وَالرُّسُلِ
وَالْحَمْدُ لِلَّهِ رَبِّ الْعَالَمِينَ

وَقَرَّبَ رَبِّي زَيْدِي عِلْمًا

(طه: ۱۱۳)

**The Doctrine of Certainty In The Islamic
Methods of Inference**

By Yunus Soualhi

A dissertation submitted to the Academy of Islamic Studies,
Department of *Fiqh* and *Uṣūl al-Fiqh*, in partial fulfillment
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Jabatan *Fiqh* dan *Uṣūl al-Fiqh*

Division of *Shari'ah*

University of Malaya

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ABSTRACT

This thesis is an articulate study on the modes of inference in the legal field. Observing the huge legacy left by early and modern jurists on *Uṣūl al-Fiqh*, one would find that the rules promulgated to regulate the operation of *Ijtihad* appears vacillating between certainty and uncertainty. A thorough examination of the criteria set by jurists to determine the accuracy of the legal proofs suggests that every thing appears to have been comprehensively tackled except “*Certainty*”. A lack of an adequate theorization for certainty in the legal field is exactly what has prompted us to venture into this thesis.

This has led us to trace the roots of certainty in *Uṣūl al-Fiqh* as well as in *‘Ilm al-Kalām* (Muslim theology), a matter that has unveiled various trends and sects adopting motley views on the authenticity of proofs. This has also uncovered the divergent and convergent scopes among jurists and theologians while referring to the certainty of the methods of inference.

The thesis examines certainty in almost the entire themes of *Usul al-Fiqh*. Yet, it selected the areas where certainty is conceivable and discarded where only speculation is achievable. The aim is to scrutinize the jurists’ views on ‘*Certainty*’ and how far the criteria set for it are accurate. It clearly differentiates between the various possible levels of certainty and how they can materialize in the genuine enactment of the law.

The thesis has unreservedly examined the criteria set by the jurists to determine the certainty of the legal text. The latter, being the backbone of inference, was subjected to a new study where Context (*Siyāq*) would be the solid platform determining its certainty. In this respect, a new method has been suggested to employ “Context” in order to achieve Certainty from the legal text. The theory of context propounded in this thesis can be effectively used to review the patterns of definitiveness and speculation settled by the classical methods of inference. This would include the elevation of the ‘speculative’ into ‘the definitive’ and the degradation of the latter into the former.

The thesis has also sought to examine certainty at the level of the agreeable sources of Shari ‘ah (*Qur’ān*, *Sunnah*, *Ijmā’*, and *Qiyās*). It tried to explain why *Mutawatir* and *Ijma’*, for instance, are widely regarded by the bulk of jurists as the most definitive sources of Shari ‘ah. It reviewed the said views and proposed new dimensions to assess the certainty of the agreeable sources. It even studied the possibility to elevate *Qiyās*, deemed speculative by the bulk of jurists, into a definitive source of Shari ‘ah.

Lastly, the thesis unveils a trend advocating the full certainty of the methods of inference in *Uṣūl al-Fiqh*. It notices that Muslim history never ceased to produce jurists yearning for decisiveness and ‘uniformity of inference’ in the legal field. Yet, the thesis is not trying reviving perished schools of thought nor is it attempting to yield credibility to an unusual view. Through unfolding this trend, we are reconsidering ripe views delivered to unripe audience in a time when ‘speculation’ appears to be the main cause for the inadequacy underlying the modes of inference for many centuries.

Dedication

To my beloved parents who nourished me with the love of knowledge,

To my brothers and sisters,

To my brother **Khalid**, the hero, May Allah bless his soul and dwell him in heaven,

To my wife **Ghalia** and my two pearls, **Aminah** and **Ala'**,

To my brother **Bachir**, the companion in prosperity and duress,

To those roaming in quest of **Certainty** ...

I dedicate this thesis

ACKNOWLEDGEMENTS

By the grace of Allah (S.W.T), this thesis has been successfully completed after we have endured all the pain to come up with a study of innovative nature. As no one would thank Allah until he has thanked people, it is my honor as well as my duty to show gratitude to the people who have helped, in one way or another, in orienting or refining this thesis.

Most and foremost, a deep appreciation goes to my supervisor **Prof.Dr. Maḥmūd Zuhdī** for supervising this thesis. His wisdom and knowledge have been paving the way for this thesis to be a daring attempt and a distinguished study on one of the most difficult topics of *Usul al-Fiqh*. I am fully indebted to his valuable suggestions and constructive comments. I am equally indebted to Associate Professor **MD.Saleḥ Hj.MD@ HJ.Aḥmad** , former Head Department of *Fiqh* and *Usul al-Fiqh* (University of Malaya) for his continuous support and the highly standard character he showed during my studentship in his respective Department. I should not forget to extend my acknowledgment to my colleague **Dr. 'Abd al-'Azīz Barghout** for his outstanding support and useful suggestions. My thanks shall also be addressed to **Dr. Qutb Muṣṭafā Sano** of the International Islamic University (Malaysia) for his comments and special interest in my topic.

Last but not least, my special thanks go to my wife **Ghāliya** whose help speeded up the completion of this thesis. She deserves a great appreciation for her patience, support and the tedious work she made to revise the whole manuscript.

Transliteration table

Consonants:	
ʾ	e.g: آلاء Ālā'
b	e.g: باب Bāb
t	e.g: تتریب Tathrīb
th	e.g: ثواب Thawāb
j	e.g: جنة Jannah
h	e.g: حرام Ḥarām
kh	e.g: خير Khayr
d	e.g: دنيا Duniyā
dh	e.g: ذنب Dhanb
r	e.g: رب Rabb
z	e.g: زينة Zīnah
s	e.g: سيرة Sīrah
sh	e.g: شمس Shams
ṣ	e.g: صراط Ṣirāṭ
ḍ	e.g: ضرب Ḍarb
ṭ	e.g: طاولة Ṭāwilah
ẓ	e.g: ظهير Ẓahr
ʿ	e.g: عيب 'Ayb
gh	e.g: غيب Ghayb
f	e.g: فناء Fanā'
q	e.g: قرية Qaryah
k	e.g: كهف Kahf
l	e.g: ليل Layl
m	e.g: موت Mawt
n	e.g: نعمة Namīmah
h	e.g: هواء Hawā'
w	e.g: وراء Warā'
y	e.g: يمين Yamīne

أل al (not omitted in front of proper names).

ه h (e.g: مصلحة Maṣlaḥah).

Vowels:

* Long vowels:

آ : آى

e.g: بشرى Bushrā

آبى Ābiq

أ : اى

e.g: شروق Shurūq

إ : اى

e.g: جميل Jamīl

* Short vowels:

* — a e.g: أمل Amal

* — u e.g: مجاهد Mujāhid

* — I e.g: رزق Rizq

Doubled:

يى e.g: زى Zayy

و ww e.g: لواء Lawwāmah

LIST OF ABBREVIATION

- A.H** after *hijrah*.
- d.** died
- e.g.,** *exempli gratia*, for example
- ed.** edited by, editor (plural, eds)
- edn** edition number
- etc.** *et cetra*, and so forth
- fig.** figure (plural. figs)
- ibid.** *ibidem*, in the same place
- n.d** no date
- no** number
- p.** page (plural, pp)
- s.a.w** *Ṣalla Allāhu 'Alayhi Wa Sallam*
- s.w.t** *Subḥānahu Wa Ta 'ālā*
- trans.** Translated by
- vol.** Volume (plural vols)
- vs.** *versus*, against

LIST OF FIGURES

Figure 1 & 2.....	page 63
Figure 3.....	page 64
Figure 4.....	page 79
Figure 5.....	page170
Figure 6.....	page 182
Figure 7.....	page183
Figure 8.....	page 295

TABLE OF CONTENTS

ABSTRACT	i
DEDICATION	iii
ACKNOWLEDGEMENTS	iv
TRANSLITERATION TABLE	v
LIST OF ABBREVIATIONS	vi
LIST OF FIGURES	vii
TABLE OF CONTENTS	viii

CHAPTER ONE: INTRODUCTION 1

1.1 Literature review	7
1.2 Statement of the problem	21
1.3 The objectives of the research	22
1.4 The methodology of the research	23

CHAPTER TWO: THE CONCEPT OF CERTAINTY IN THE ISLAMIC THOUGHT 25

2.1 Definition and juristic implications	28
2.2 The roots of certainty and uncertainty in the Islamic legal system	31

2.3 The feasibility of certainty in the legal thought	35
2.4 Certainty between <i>Uṣūl al-Fiqh</i> and <i>Uṣūl al-Dīn</i>	55
2.4.1 Certainty in <i>‘Ilm al-kalām</i> (Muslim theology)	57
2.4.2 The integral dimension of certainty in both disciplines	82

CHAPTER THREE: CERTAINTY AND THE THEORY OF CONTEXT (*SIYĀ Q*) 91

3.1 The semantic certainty of the legal text	92
3.2 The context (<i>Siyāq</i>) and the certainty of the legal text.	128
3.2.1 The concept of <i>Siyāq</i>	129
3.2.2 The pillars of <i>Siyāq</i>	135
3.2.3 The periphery of the legal text.	144
3.3 Practicality of <i>Siyāq</i> and the certainty of the legal texts.	151
3.3.1 Elevation and degradation processes between <i>Qaṭ’ ī</i> (definitive) and <i>Ẓannī</i> (speculative).	151
3.3.2 The legal proof between definitiveness and speculation	156

CHAPTER FOUR: CERTAINTY AND THE AGREEABLE SOURCES OF *SHARĪ ‘AH* 166

4.1 Formal certainty of the divine text.	167
4.2 The logical certainty of <i>Mutawātir</i> (Recurrent report)	173
4.3 Certainty of <i>Ijmā‘</i> (Consensus of opinion):	188

4.3.1 The definitive originality of <i>Ijmā'</i>	197
4.3.2 The certainty of the view concluded by <i>Ijmā'</i>	209
4.4 Certainty of <i>Qiyās</i> (Analogical deduction)	212
4.4.1 <i>Ta 'līl</i> (Ratiocination) and the certainty of <i>Qiyās</i>	218
4.4.1.1 <i>Ta 'līl</i> and the infallible sources of <i>Sharī 'ah</i>	219
4.4.1.2 <i>Ta 'līl</i> and the rational modes of inference	225
4.4.2 The form and the substance (<i>Māddah</i>) of <i>Qiyās</i> : An emendable approach	228
4.4.2.1 Amendment at the level of the form of <i>Qiyās</i>	230
4.4.2.2 Amendment at the level of the substance of <i>Qiyās</i>	237

CHAPTER FIVE:

MAQĀṢID AL-SHARĪ 'AH: THE NEW DEFINITIVE **244**

FIGURE OF THE SCIENCE OF UṢŪL AL-FIQH

5.1 The Rational behind calling for a definitive science in the legal field	245
5.2 A brief historical account of the idea of <i>Maqāṣid</i>	249
5.3 <i>Al-Maṣlaḥah</i> (Utility) and its classes	251
5.4 Al-Imām al-Juwaynī and the certainty of <i>Maqāṣid</i>	255
• Futility of the absolute <i>Maṣlaḥah</i>	
• The certainty of <i>Maqāṣid</i>	
• How does the certainty of <i>Maqāṣid</i> generate definitive rules?	
• Certainty and the law of necessity (<i>Ḍarūrah</i>)	

5.5 Al-Imām Abū Ishāq al-Shāṭibī and the certainty of <i>Maqāṣid</i>	264
• Al-Shāṭibī and the certainty of Induction	267
• The <i>Kullī</i> and the <i>Juz 'ī</i> and the justification of the Certainty of <i>Maqāṣid</i>	283
5.6 Moḥammad al-Ṭāhir bin 'Āshūr and the certainty of <i>Maqāṣid</i>	286
5.7 Al-Juwaynī, al-Shāṭibī and Bin 'Āshūr: A comparative analysis	292
CONCLUSION	298
BIBLIOGRAPHY	305
GLOSSARY	315

CHAPTER ONE:

INTRODUCTION