CHAPTER VI

We will try in this chapter to study some legislation issues that have been repeatedly mentioned by the modernists. For the sake of brevity we have chosen three issues for each one to which we have assigned two examples. The first two are related to women’s heritage and attire and the third is related to criminal issues (stealing).

6.1 THE FIRST ISSUE: WOMEN'S INHERITANCE

The issue of equality between man and women is among the most common on which the modernists have focused. They have tried to find for it religious credibility. An example of this is the call to equality between the two sexes on inheritance. We have chosen two famous thinkers to represent the modernists' point of view.

6.1.1. The first representative: Muhammed 'Arkūn:

'Arkūn discusses this issue through the analysis of the second part of the 12th verse from Sūrah al-Nisā because he believes that it contains a lot of problems which show that it is necessary to move from al-‘Ijtiḥād (renovation) to a critique of the Muslim's mind. Imitating Powers research, he asked some Arabic speakers to read the verse without being vowelized. He got -according to him- surprising results. He found out that those who had memorized the Qur'ān pronounced the words of the verse similar to the way the Qur'ān was vowelized, whereas, those who had not memorized the Qur'ān read the verse differently. The reading provided by the religious scholars is as follows:
“If the man or woman whose inheritance is in question, has left neither ascendants nor descendants, but has left a brother or a sister, each one of the two gets a sixth; but if more than two, they share in a third; after payment of legacies and debts; so that no loss is caused (to anyone). Thus is it ordained by Allah; and Allah is All-Knowing, Most Forbearing.”

Sūrah al-Nisa: 12.

He believes that the reading of those who do not memorize the Qur‘ān and depend only on linguistic competence is different from the one provided by the religious scholars in that (‘Imra‘ata: woman) and (kalālatan) are direct objects ending with the sound (‘an) while the verb (Yūrithu) inherit and (Yūṣi) bequeath are put in the active.

According to him, it is clear that the official reading imposed by religious scholars is twisted, very difficult and heavy. For this reason, it requires a lot of explanation, arguments, and linguistic analysis especially concerning the meaning of (kalālah) as quoted by al-Ṭabarī. The question that arises is why the easy and suitable reading was rejected while the difficult one is adopted? To answer this question, he mentions these assumptions:

1. This example mentioned by al-Ṭabarī is an important one as its shows the way the orthodox point of view was imposed in Qur‘ān Reading and Explanation science. As a result of the majority agreement, the more accurate and logical reading was abolished without paying attention to the legislative, economic and social problems resulting from it.

2. It shows that the historical operation that led to the emergence and dominance of the majority and to the weakness of the minority was not subjected to any critical study that could lead to the rewriting of the Qur‘ān according to the
accurate linguistic way. This shows clearly the legislators' opportunism who judge anything that is not in agreement with their interests as being subjected to *Naskh*.

3. His methodology, though it does benefit from the orientalists' methodology, it does not end at that level but goes further. He claims to know how to move from the true word of God to the word of the scholar using the modern linguistic methodologies and the sciences of psychology and anthropology. Powers' study of the hadiths mentioned by Tabari regarding the meaning of (*Kalālah*) - mentioned in the twelfth verse and hundred seventy-sixth verse of chapter al-Nisā', - proves al-Ṭabari's playing with the narrations. He neglected 13 narrations that give a different meaning to (*Kalālah*) from what he wanted to emphasize and impose. According to the writer, al-Ṭabari usually does the same thing in order not to differ from the Muslim majority and consequently preserving Muslim unity. Al-Ṭabari's work -though he deleted some narrations and testimonies- helps us to understand a crucial period of Muslim history that witnessed a lot of discussions and finished by al-Ṭabari's intervention to the orthodox point of view.

4. He believes that he is capable of fulfilling what Powers and his orientalist teachers failed to do, that is, he thinks he could erase the dominance of the imposed point of view by showing that it was falsely chosen by al-Ṭabari to preserve the consensus which the 'Ummah believe is the true expression of 'Allāh's purpose although this led to the sacrifice of the true meaning of the *Qur'ānic* words. To achieve this, he chooses some narrations from Tabari's
explanation. He asserts that these narrations are crucial and his analyzing them focuses on two levels:

a. The first level is the discovery of the explicit meaning and the summarizing of the assumptions that control the belief. These assumptions are three:

- Tabari's strong attempt to keep the word *(al-Kalālah)* ambiguous and without any definition. The persistence of the problem from the Prophet's time is not only because inheritance is important but could also lead to the shaking of the previous Arabic inheritance system. This might be the reason why 'Umar was reluctant to reveal the true meaning of *(al-Kalālah)* as most narrations mention.

- Though the traditional scholars respected the *Qur’ān* and admitted the ambiguity of the meaning of *(al-Kalālah)*, they used to define *(al-Kalālah)* according to the need of the nation, the pressure of the circumstances and according to the customary distribution of wealth.

- He agrees with Powers that the religious scholars have brought apart the law system that the *Qur’ān* wants and the one formulated by religious scholars and adopted by the authorities representative of Islam. For example, the *Qur’ān* insisted on the freedom to bequeath a legacy whereas the scholars have limited it and laid out limitations to its fulfillment according to historical circumstances. It is important to distinguish between the position of the orientalists who accept the three previously mentioned assumptions and consequently reject all the believers' assumptions and the believers' point of
view who believes in the accuracy of these narrations and thinks that they are the historical manifestations of the Qur'ānic verses, and consequently reject the orientalists' point of view. This is shown in the second level.

b. The second level is more advanced and depends on the archeological method. In other words, the writer tries to study the techniques to come up with stories used to explain the Qur'ān. He will try to show the role of these stories and the role they play in satisfying society's imagination with imaginary concepts and making these concepts dominate the rationale of history. In order to better understand this, it is important to see the social and psychological differences existing between the oral mentality and the written one, that is to examine the contextual conditions -whether oral or written- that generate the meaning. To illustrate this, he provides two examples mentioned by al-Ṭabarī regarding the issue of (al-Kalālah) (to have a distant heir). The first one is the story of the snake, which appeared suddenly in the room and made 'Umar anxious to explain the meaning of the word. The second one is the preoccupation of the Prophet with splashing some of his ablution water on Jābir 'Ibn 'Abd 'Allāh who lost consciousness. This drew his attention away from explaining the meaning of the word (al-Kalālah). These two narrated stories do not receive any objections from the listeners (believers). They think that it belongs to the unseen world. It is an example of the amazing things, which should not be questioned. However, when we move to the level of writing we find that this conception based on miracles loses its function as a result of critical reading. It turns out to belong to the world of heresy,
sanctities and mythological awareness. Using this method we can understand the continuation of the psychological make-up related to the narrations and rumors until today. It is even getting more widespread within the Muslim societies through the modern tools\footnote{Arkûn, Muḥammad (1991), \textit{min al-‘Ijtihād ʿilā Naqd al-ʿAql al-ʿIslāmī}. Hāshim Sāliḥ (trans.), 1\textsuperscript{st} ed. Beirut & London: Dār al-Sāqi, pp.29-64.}.

\textbf{6.1.2. Assessment:}

We do not know from where we can start discussing his claims with him. Is it by explaining to him the basic rules of the Arabic language so that he could understand the fallacies and contradictions he falls into? Or by reminding him of the basis of what he claims to know very well so that he might know the meaning of linguistic competence or by the requisites of empirical research so that he knows how to choose samples for his research?

Nevertheless, we shall start criticizing him in the area in which he claims to be an authority, that is, linguistics and human sciences, which we think he could understand better. After that, gradually we shall move in our criticism to the things he knows nothing about, that are Islamic studies.

1. In the beginning of his analysis, he mentioned that he has shown the verse to some Arabic speakers who can be divided into those who have memorized the Qur’ān and those who have not. This means that he conducted a field research, which requires the choice of the suitable sample. This in turn requires:

   a. To choose the population of the sample: it is improbable that France -the current home of the writer- is the right place to choose a suitable sample. Even the Arabs there most of them are unable to come up with even one correct
sentence. The luckiest among them are those who are able to speak colloquial Arabic. Concerning the educated Arabs, there are but a few of them and they are little better than the laymen. The writer himself is an example of this kind of Arab intellectual. He seems that he is so good at neither speaking nor writing in Arabic. This is evidenced by the fact that, to the best of my knowledge, he never wrote even one book in Arabic.

b. There should be a suitable relationship between the size of the sample and the size of the population taken from it so that in the end we are able to generalize the results. Bearing in mind the fact that 'Arkūn is himself isolated from his Arabic and Islamic environment, he imposed on himself such isolation because of his lack of respect for the Muslims' sacred things and their feelings.2

2. In case he could defend himself against the previous criticism, it is certain that he cannot deny the fact that there is no Arabic environment that has the linguistic competence required. In fact, we have linguistic competence for colloquial Arabic only. For example, in the al-Maghrīb al-ʿArabī - especially Algeria (the writer's country) - there are a variety of languages such as the 'Āmmīyyah which is a mixture of some Arabic words and some French and Berber words. It is a language for communication and does not abide by any constant rules but changes

2Brīsh, Muḥammad (1986), "Waqafta maʿa Muḥammad 'Arkūn min Khilāli 'Intājihī wa Fikrīh: Li Mādhī Muḥammad 'Arkūn". Morocco: al-Hudā Magazine, no. 14, May-July 1986. p 60. Brīsh had mentioned what happened during a talk given by 'Arkūn in a Paris mosque on 7 February 1987. 'Arkūn was the subject of fierce criticism and anger on the part of the listeners. It seems that it was the first time in twenty years that 'Arkūn had entered the mosque though it is located near his house.
from one place to another. Besides it, there is the Berber language and the French language used by the Western - influenced people.

In the other Arabic countries the situation is no better. There is no Arabic country in which the people there use the Classical Arabic language - the language of the Qur'ān - so that we can say that it has the linguistic competence. In fact, linguistic competence has been missing since the second century of Hijrah.\(^3\)

Where are those Arabians whom the writer found eligible to be used as a criterion judge of the Qur'ān because of their linguistic competence? Therefore, we advise him to check his linguistic knowledge and to learn how to apply it so that he would not fall into the same fallacies again.

3. Now we leave these methodological fallacies aside and we focus on his point of view, as it is to see the consequences resulting from it. The verse as it is shown in the Qur'ān is as follows:

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\text{Wa 'in kāna rajulun yūrathu kalālatan 'aw 'imra'atun wa lahu 'akhtun 'aw 'ukhtun fālikulli wāhidin minhumā al-sudusu fa'īn kānū 'akthara min dhālika fahum shurakā'ū fi al-thuluthi min ba'di waṣīyyatīn yūṣū bihā 'aw daynīn ghayra muḍārīn waṣīyyatīn mina al-'Allāhi wa al-'Allāhu 'Asimun Ḥasilmun}
\]

Sūrah al-Nisā': 12.

The 10 readers (Qurrā') agreed that (yūrathu) is read by (ḍammī al-yā') and (fāthī al-rā') and (naṣībī kalālatan) and (rafi'ī 'imra'atun). While 'Ibn Kahlīr, 'Ibn 'Āmir and 'Aṣim read yūṣū by (fāthī al-ṣād) and ('alīf) after it while the others read it by (kasrī al-ṣād and yā'un) after it.\(^4\) It was narrated in the exceptional


reading that al-Ḥasan al-บาشri and al-Muṭawwi’i al-باشري read (yuwarrithu) by (fathī al-wāw) and (kāsrī al-rā’ mushaddadah) with (naṣībi al-kaḷālah) and (rafi’ī ‘imra’ah). Al-Ḥasan al-باشري also read (yuwasṣī) with (fathī al-wāw and tashdīd al-ṣād) and (kaṣrīḥā). al-Qurtubī narrated that al-Ḥasan al-باشري also read (yūrithu) with (kāsrī al-rā’ wa takhfīfīḥā) and (naṣībi kalālātān) and (rafi’ī ‘imra’atun).

As it can be seen, all the readers agreed that (kalālah) is (mansūbah) and (‘imra’ah) is (marfū’ah) If the (al-rā’) is (makṣūrah) (kalālah) then is (mansūbah) as direct object meaning that the heirs or the money and it will be (ḥāl) a circumstantial expression if it related to the dead. While, (‘imra’ah) woman its function in the sentence (‘i’rābūḥā) is the same as (rajulun) man. As a consequence of reading (yūrīthu) with (making it in the active voice) the meaning of (kalālah) it will have three meanings: the heirs, the money or the dead. And two grammatical functions either (al-maf‘uliyyah) or circumstantial (al-ḥāliyyah).

Undoubtedly, (‘imra’ah) woman - according to the reading of ‘Arkūn - will take the same grammatical function (ḥukm) of (kalālah) because the coupled (al-ma’tūf) will take the same function as the one that preceded it (al-ma’tūf ‘alayh).

5al-Qāḍī, ‘Abd al-Fattāḥ (1981), al-Qiraʿāt al-Shāhīdāh. Beirut: Dār al-Kitāb al-‘Arabi, p.7-10. He mention that al-Qiraʿah al-Shāhīdāh (the exceptional reading) is the one which lacks some or all the conditions needed in the accurate reading which is, being in agreement with one side of the Arabic language, the holy book (al-Muṣḥaf al-‘Uthmānī), and successiveness (tawāṭur) which is the most important one. It is an explanatory reading on which all the ‘Ulāmas agreed that it is illicit to consider it as Qurʿān or to pray with it.


9Ibid., p.78.
If we say that *(kalālah)* means the heirs, the meaning of *(‘imra’ah)* woman will be redundant and meaningless because it is included in the heirs. If ’Arkūn wants to give it a different meaning it will become a riddle that we don’t have any hope of solving. If we assume the meaning of *(kalālah)* is the money then this will entail that the *(‘imra’ah)* woman will become part of the inheritance, that is, a mere product that can be taken as we take the camel and the sheep. ¹⁰ If the meaning of *(kalālah)* referred to the dead, then this would be funny because the man cannot be called a *(‘imra’ah)* woman unless we want to humiliate him, and would be also a tragedy as maybe ’Arkūn and his followers may assume - after they read this research - that the meaning of *(kalālah)* refers to homosexuals. However, we should remind them that their problem is with *(kalālah)* and not with the word *(‘imra’ah)*. Thus, which reading is correct and in agreement with Arab good taste? Is it the reading adopted by the *(‘Ulamā’)* (Scholars) and used in the holy *Qur’ān* or the one uncovered by ’Arkūn from the Arabs of the twentieth-century?

However, after all this twisting and turning he surprised us by coming up with nothing as usual¹¹. He confirms that he does not know the meaning of *(kalālah)*. He says," it is difficult to solve the issue of readings and come up with the real meaning of *(kalālah)*¹². However, his student Hāshim Şāliḥ has mentioned in his footnotes of the book that:

Its meaning is the "Kannah" which means the wife of the son and therefore if the son is dead this means that his inheritance must be

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¹¹It is known that Arkun tends to create problematic questions and gives you the impression that he knows the answer, then in the end he will conclude his analysis without any definite answer leaving you in a sea of doubt and suspicion.

moved to the wife and maybe another family member. This would threaten the whole system of Arab inheritance. This would not be allowed by the religious scholars even if (this would entail) opposing the Qur’ān or mischievously interpreting it.13

Moreover, in another article, he affirms that the meaning of (al-Kalālah) is (al-Kannah) in accordance with the (al-’Akādiah) jurisdiction language14. He forgot that the wife's inheritance is mentioned in this verse along with the husband's portion:

“In what your wives leave, your share is a half, if they leave no child; but if they leave a child, ye get a fourth; after payment of legacies and debts. In what ye leave, their share is a fourth, if ye leave no child; but if ye leave a child, they get an eighth; after payment of legacies and debts.”

Sūrah al-Nisā’:12

If 'Arkūn's claim that the 'Ulama’ hid the daughter-in-law's portion of inheritance is true, then, where is her husband's (son-in-law) portion from her father?

4. Coming back to human science methodologies and particularly to the anthropology of religion which, according to 'Arkūn, has magical power to uncover the mystery of religions. We will try to use this methodology to analyze other verses. We choose the second verse from chapter al-Tawbah. Our sample will be the same selection of people the writer chooses -because we are unable to find out such as this sample that have the linguistic competence- and then we look at the result. Allah says:

“(Wa 'adhdḥun mina al-'Allāhi wa Rasūlihi 'ilā al-Nāsi yawma al-ḥajji al-'Akbari 'anna al-'Allāha barī'un mina al-Mushrikīna wa Rasūluh) “And an announcement from Allah and His Messenger, to

13Ibid, p. 54.
the people (assembled) on the day of the Great Pilgrimage - that Allah and His Messenger dissolve (treaty) obligations with the Pagans."

Sūrah al-Tawbah: 3.

If the people chosen by 'Arkūn were asked to read this verse without making it vowelized, surely, they would pronounce the words like the Bedouin by (jarrī Rasūlihi) (messenger), connecting it to (mushrikūn) pagans. However, the Bedouin had been aware of the deviation that this reading contains\(^{15}\). Would 'Arkūn accuse the Ulamas of falsification or would he recognize that his methodology and sampling are false and stop his accusations and claims?

In fact, we do not know how 'Arkūn could forget his claim that the Qur'ān has a mythological structure and has nothing to do with political and life affairs. How could he make it considered to be a jurisdiction book? Doesn't this mean that this work contradicts his methodology?

6.1.3. The second representative: al-Jābirī:

Now we shall move to al-Jābirī and see how far historical, deconstructionism and structuralism\(^{16}\) enabled him to understand his views on the issue of inheritance and particularly the rule that men should get twice as much as women mentioned in Allah's saying: "Allah (thus) directs you as regards your children's (inheritance)"

Surah an-Nisa: 11. Al-Jābirī starts in his analysis with the question "How can we read this verse (Ḥukm), a reading that makes it contemporary to itself and in the same time contemporary to us?"


According to him to make the text contemporary to itself is to be read it in its social context, which means the tribal structure of Arabic society whose features are as follows:

1. The possession was based on (*al-Mashā'ah*) which means the individual is totally absorbed in the society. The individual does not own anything but the tribe owns it. The relationship between the tribes is determined by the tools of survival.

2. The tribal society believes that marriage should not be among the same family. They prefer to go to other tribes for marriage for the sake of making alliances. This in turns creates problems related to inheritance. Women's inheritance could cause the transfer of money from one tribe to another - especially in the case of polygamy - due to the limitation of money in the society. Therefore, equating men and women in inheritance could cause the failure of the economic balance as a result of the accumulation of money in certain tribes and its shortage in others, which could result in the failure of the economic balance. As a result of this social pressure and in order to avoid such problems, Arabic tribes used to prefer not to give women the same amount of money as men. Others had even chosen to deprive women of inheritance totally.

3. After the coming of Islam, it had to deal with this status so that it would not cause any economic misbalance; Islam provided an in-between solution suitable to the new period. Islam gave women half of men's portion of inheritance. Thus, he kept the balance in a society governed by the tribe. If we know these factors, we could understand the reasons why Islam has not equated men and women in terms of inheritance. They are the reasons why Islam has given the female one third only. It is a suitable solution that kept the balance and justice in that era. He
mentioned a text written by 'Ikhwān al-Ṣafā in which they show clearly the Islamic justice in giving the girl one third only of inheritance. They supposed that two men died. Each one of them left one man and one girl and property of 150 Dinar. If two families marry each other, each family will get the same amount they had before the marriage, that is, each family will have 150 Dinar.

He used this example to prove that the division of inheritance provided by Islam is, in fact, a response to the circumstances of the tribal society during that era. He concludes that the modern intellect must be aware of the fact that the Islamic verdict came as a response to the needs of the society that it addressed in the first time,\(^{17}\) that is the Arab peninsular of the first century of *al-Hijrah*.

6.1.4. Assessment:

We will start our discussion of al-Jābiri’s view from where he finished and we will move gradually to his assumptions.

1. His conclusion is that the Islamic verdict is relative and governed by the social and historical circumstances. It is modified when these circumstances are modified. This means that the important thing in the verdict is what exists in reality and not the Text. This entails that a girl’s inheritance is half of the man’s is not unchangeable. The logical result of this is the equation between men and women so that we would be in agreement with international law. This methodology would lead us to cancel (*al-* ‘Iddah) so that we would not to need three periodical menstruations because the doctor can guess nowadays whether the woman is pregnant or not. Friday prayer could be changed to Sunday prayer

\(^{17}\)Ibid., pp.54-56.
since Sunday is a public holiday for most world countries. It is also possible to cancel al-'Asr and al-Zuhr prayer because they occur during working time and may negatively affect the public interest. Fasting also would have to be changed because it affects manpower and may reduce production and so on. These are some of the consequences resulting from this historical perspective. Al-Jābiri’s perspective aims at destroying Islam and dealing without its guidance and requirement.

2. Al-Jābiri’s premises: They are a good example of a non-realistic thinking. His presupposition that women were deprived of inheritance because the tribes wanted to keep the economic balance and prevent the accumulation of wealth in the hands of a minority which could lead to struggle. These suppositions can be true only if we have two tribes; one of them consists mainly of women while the other one consists mainly of men. Women in the first tribe marry men in the second tribe; then, these men died and their wives took their wealth to the first tribe. An economic imbalance would occur. As a result, the two tribes would fight.

3. His view that the relevance of the verse is limited to a certain historical period, and his claim that the justice this verse achieves is suitable to the nature of that period is unfounded. The example taken from 'Ikhwān al-Ṣafā that he used to prove his theory does not stand up to any analysis. The justice that 'Ikhwān al-Ṣafā mentioned could be achieved even when we give the female a third, a half or a quarter. It can be achieved even if she does not get anything if our criterion is only mathematical calculations. Going back to the example mentioned earlier, if
the female takes a half like the boy, it means that her portion will be 75. Adding it to the portion of the husband, it will be 150.

The same thing if we deprive her totally of the inheritance. If she left 150 - the money her father left - to her brother and his wife, she would get 150 from the father of her husband. In fact, the example he provides is evidence that shows the incredibility of his supposition that women were deprived of inheritance in order to maintain the balance because this could be achieved even by allowing women to inherit. What this tribe would give to the other tribes' women could be got back in the same way.

4. In the beginning of his presupposition he mentions that possession was based on (al-Masha‘ah) which means the individual is totally absorbed in the society. The individual does not own anything but the tribe owns everything. By this statement al-Jābiri notices the collapse and ruin of his theory, which depends on an axiom that man by nature is certainly not anomalous to his environment wherein he lives; for him the Arabian population density, to all intents and purposes, edged to zero habitat. The Bedouin’s shelter was simply a roving tent that follows his regular travels, whereas the tribe was no more than a group of individuals, who were actually overwhelmed by the spirit of individualism. Overall, the Arab society was a pastoral community based on dissociation and disjunction similar to their environment

"Plants in the desert are independent unities separated from each other, (they are) scattered and discerned... and the animals (in such an environment) do not live in forests where they lose their selfhood amid the interlaced branches and lush grass as there are no forests in the desert, wherein animals, rather, live in the open air, in a

18See the section of Language on the third chapter of our thesis.
countryside where everything exists in a singular state as an independent unity... such is the state of the human being (in this desert millieu), he is (of course) an individual.\textsuperscript{19}

6.2. THE SECOND ISSUE: MUSLIM WOMEN'S VEIL

The issue of the veil or the Islamic dress is among the most debated issues in the whole world and, in particular, in the Arab world between the Islamic movement and the modernist movement. Because of the newness of the subject, we have chosen two examples that best represent the modernists' point of view. The first one is 'Aḥmad 'Amīn who has written many books. The other one is Muḥammad Shuḥrūr.

6.2.1. The first example, Ḥusayn 'Aḥmad 'Amīn:

He used literary language to discuss this issue in about 25 pages. Therefore, I have tried to re-organize its parts to put them in a methodological and simple form. His analysis could be summarized in two elements: Putting the phenomenon in its current framework and establishing the origin of the Modernists' point of view.

1. Putting the phenomenon in its current framework, which will be as follows:

a. The description of the phenomenon: Ḥusayn 'Aḥmad 'Amīn claims that it is abnormal for women to wear the veil. He says "what makes some people consider the veiled woman abnormal is the fact that the dress she adopted reveals an unsound mental attitude and (reveal) values and concepts that others consider abnormal."\textsuperscript{20} The criteria which depended on the assumption that the veiled woman is abnormal are as follows:

\hspace{1cm}\textsuperscript{19}Al-Jābiri, Muḥammad ‘Ābid (1992), \textit{Bunyah al-‘Aql al-‘Arabi}, 4\textsuperscript{th} ed. Beirut: Center of Arabian Unity Studies, p.241-

\hspace{1cm}\textsuperscript{20}Amin Ḥusayn 'Aḥmad (1992), \textit{Ḥawla al-Da’wah ‘Ilā Taṣbiq al-Shari‘ah}, 3\textsuperscript{rd} ed. Cairo & Kuwait: Dār Su‘ād al-Šabbāḥ, p.67.
• The others who are of different types like: First, the non-veiled woman\textsuperscript{21} like those who wear trousers or a dress that does not reach the knee\textsuperscript{22}. Second, those who are against Islamic movements including the governments and the writer himself is one of them\textsuperscript{23}. We do not know how it could possible that others feelings and tastes can be a legal permission for permissiveness and exposure of the body and a criterion to differentiate between the normal behavior from the abnormal one. It is also inconceivable what makes the writer believe that the taste of the immoral women is a reason to deprive women from their right to cover.

• Historical development: It is abnormal for him that we can still hold to values and concepts that, in the name of religion, stand against our historical development like the belief that looking at women is a satanic arrow, and the saying that it is illicit for a woman to show any parts of her body except her face and her hands\textsuperscript{24}, and that man and woman should not look at each other or be together in private\textsuperscript{25}.

In fact, the writer has proved to have two bad qualities: First, he has a permissive point of view, since according to him, the belief that women should wear the Islamic dress and that the private meeting of men and women is illicit and following God's religion are considered abnormal, it follows that permissiveness and a man and woman's private meeting are normal and a

\textsuperscript{21}Ibid., p.66.
\textsuperscript{22}Ibid., p.65.
\textsuperscript{23}Ibid., p.72.
\textsuperscript{24}Ibid., p.67.
\textsuperscript{25}Ibid., pp.67,68,74.
token of civilization and progress. We will discuss this in detail later. Second, he does not recognize the Sunnah and underestimates it. The illicitness of Khulwah (private meeting of man and woman) is clear in the Sunnah. Al-Bukhārī and Muslim narrate that 'Ibn 'Abbās narrates that the Prophet - peace on him - says: "No one of you should stay alone with a woman unless she is with Mahram (unmarriageable person)"\textsuperscript{26}. In addition to this the writer makes fun of issues mentioned in the Qur'ān like avoiding looking at woman. Allah says: "Say to the believing men that they should lower their gaze and guard their modesty" Surah an-Nur: 30. This is in addition to other things mentioned in the Qur'ān and the Sunnah that he presumed to be outdated.

- Veil wearing by Muslim women is not an expression of someone's taste and it does not depend on their mood. They do not wear it because it is suitable to their faces. It is an expression of attitude or else why would some people deem it an abnormal thing that has to be fought against\textsuperscript{27}. Yes, wearing the veil is an expression of principle because the veiled woman believes that she covers herself because she is following Allah's commands. Whereas, wearing the veil just for the sake of fun is not the behavior of good believers, it is the behavior of models or prostitutes who care about nothing but to uncover their beauty so that they could make others fall into their trap. However, if we follow the writer's logic, we will end up in canceling prayer, fasting and pilgrimage as according to his conception they do not manifest


\textsuperscript{27} Ibid., p.65.
personal feelings but for the young generation, it is an attitude that defines
their allegiances.
b. The reason behind the emergence of the veil although, it is abnormal, seems
"to be widespread and contains the element of surprise"\textsuperscript{28}. Therefore,
according to him, it is necessary to look at the non-personal reasons behind
this surprising and rapid rise of the veil in such a short time\textsuperscript{29}. It has spread in
society like "wild fire"\textsuperscript{30}. The real reason -according to him- is the shock that
the society got in the aftermath of the 1967 defeat of the Arabs against the
Jews. This shattered their dreams and their hopes. This also caused the social,
political, economic and moral balances to shake. The writer tries to use the
theory of \textit{conditional reflection}\textsuperscript{31} to analyze the Arab society. He divided the
Arab society after this shock into four categories: The strong and violent
reaction, the strong but calm, the strong and active and the weak. The healthy
reactions are the second and third one while the first and the fourth one are
unhealthy. As a result of this shock and because some of the people (the first
and the fourth ones) were psychologically vulnerable -among them women-
they resorted to rebellion, challenging and isolation from society. Therefore,
the wearing of the veil, which means isolation as the Qur'ân confirms:

"Relate in the Book (the story of) Mary, when she withdrew from
her family to a place in the East. She placed a screen (to screen
herself) from them; then We sent to her Our angel, and he appeared
before her as a man in all respects."

\textit{Surah Maryam: 16-17}

\textsuperscript{28}Ibid., p.64.
\textsuperscript{29}Ibid.
\textsuperscript{30}Ibid.
\textsuperscript{31}Ibid., p.67.
spread quickly among the affected population. Therefore, according to the writer, the answer to his phenomenon is not to beat them to death as death for them is martyrdom and not by creating a loyal religious movement but to correct and modify the situation that has led to this phenomenon\textsuperscript{32}.

However, this analysis is based only on suppositions that are proven wrong by the reality. The wearing of the veil had emerged centuries before 1967. Wearing the veil is the norm in Islamic society while removal of the veil is the exception to the norm. This is affirmed by the writer himself when he said that Turks, Persians had the habit of wearing the veil as it is going to be explained later, and if the writer has in mind the Muslim dress that emerged with the emergence of Islamic movements, he has to know that even this one emerged before the 1967 defeat, since the emergence of \textit{al-\-'Ikhwān al-Muslimūn} (Muslim Brothers Movement) in Egypt. If we suppose that the spread of the veil in the Arab world was the result of 1967 defeat, how can we explain its spread in India, Pakistan, the Malayan peninsula, Iran and Turkey even though the latter has been under Western propaganda and at war with anything related to Islam from the part of the secularists? And how could we explain its appearance in the west? Is it because of the 1967 defeat or the result of people's embracing the truth that cannot be accepted by the sick souls?

2. His establishment of the origin of the modernists' point of view: after he scrutinized the phenomenon in the current context, he attempted to find out the

\textsuperscript{32}\textit{Ibid.}, p.68-72.
reasons behind it. He tried - this under a new title "women's veil, is it from Islam?"- to prove his point of view based on history and religion.

a. Historical establishment; he begins this by analysing the historical relationship between man and woman. He discusses the differentiation between them in terms of rights and obligations. This differentiation between them started - according to him - since the society was divided into tribes, races and the emergence of the private property system. This was followed by a desire to keep wealth in the hands of sons. Every tribe believed that its strength was in the preservation of its descendants. This resulted in an attempt to monitor woman's actions on the part of the parents. Imposing the wearing of the veil on women was one of the attempts to monitor them. Afterwards, things developed resulting in a social hierarchy; these concepts and values became related to Islamic beliefs. The views that it is illicit to be a with woman in private and that women are a seduction tool have spread. Although these values and concepts could have changed as a normal historical development, the fact that these values in Arabic countries became connected to Islam hindered the normal change that these values could have witnessed. For example, wearing the veil and polygamy are believed to be part of Islam confirmed by the Qur'ān and cannot be changed by time. Wearing the veil is not an Islamic duty. It was widespread even before the coming of Islam among the Arabs and the other nations like Persians and Romans as a result of reasons related to hierarchical beliefs. During that time the rich used to cover their wives to show that they were rich and were enjoying sex. The writer believes that the solution to this phenomenon -woman's veil- is not by
defending the fact that the Qur'an does not impose the veil on women, but by studying the historical, social and economic circumstances surrounding a certain verdict and by showing the need to change verdicts according to circumstances.

b. Legitimate establishment of origin; the writer moved to analyze the verses that contain the word veil (Hijāb) to prove that these words either do not mean that women should wear the veil as it is known according to the Islamic conception or that the woman's veil was related only to the reason for which the verse was revealed. He mentioned 7 verses and classified them according to the date of their revelation. These verses are:

- Sūrah Maryam: 16-17

  "Relate in the Book (the story of) Mary, when she withdrew from her family to a place in the East. She placed a screen (to screen herself) from them".

  (Al-Hijāb) here means seclusion.

- Sūrah Śād: 31-32

  "Behold, there were brought before him, at eventide, coursers of the highest breeding, and swift of foot; And he said, "Truly do I love the love of Good, with a view to the glory of my Lord," until (the sun) was hidden in the veil (of Night)".

According to the sophists, (Al-Hijāb) here means people and things.

- Sūrah al-İsrā': 45

  "When thou dost recite the Qur-an, We put, between thee and those who believe not in the Hereafter, a veil invisible".

According to the al-Bayḍāwī, (al-Hijāb) here means a veil that prevents the non-believers from understanding the Qur'an.

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33 Ibid., pp.73-76.
• Sūrah Fuṣṣilat: 5

"They say: "Our hearts are under veils, (concealed) from that to which thou dost invite us, and in our ears is a deafness, and between us and thee is a screen: so do thou (what thou wilt); for us, we shall do (what we will)".

The meaning is we do not understand you and you do not understand us. Let's act according to what each of us believes is the truth.

• Sūrah al-Shūrah: 51

"It is not fitting for man that Allah should speak to him except by inspiration, or from behind a veil".

It means putting a barrier between God's people and the light coming out from Allah's face.

• Sūrah al-'Aʿrāf: 46

"Between them shall be a veil, and on the Heights will be men who would know everyone by his marks: they will call out to the Companions of the Garden, "Peace on you": they will not have entered, but they will have an assurance (thereof)"

Ḥijāb here means a gate. All these 6 verses were revealed in Mecca.

• Sūrah al-ʾAhzāb: 53

"And when ye ask (his ladies) for anything ye want ask them from before a screen: that makes for greater purity for your hearts and for theirs. Nor is it right for you that ye should annoy Allah's Messenger, or that ye should marry his widows after him at any time. Truly such a thing is in Allah's sight an enormity."

The latest verse is the only one revealed to the Prophet when he was in Medinah that contains the word: Ḥijāb (veil). However, this verse is specific to the Prophets' wives and cannot be generalized to include all Muslim
women. The verses that deal with women's moral behavior and their appearance are as follows:

"O Consorts of the Prophet! ye are not like any of the (other) women: if ye do fear (Allah), be not too complaisant of speech, lest one in whose heart is a disease should be moved with desire: but speak ye a speech (that is) just. And recite what is rehearsed to you in your homes, of the Signs of Allah and His Wisdom: for Allah understands the finest mysteries and is well-acquainted (with them)."

Sūrah al-'Ahzāb: 32,34

According to the writer this verse is specific to the Prophet. If this is the case, does this mean that other Muslim women are allowed to show their beauty? Are they allowed to leave prayer, giving alms and speak to men in an attractive manner? If we follow his method, we will understand then that this verse:

"O Prophet! fear Allah, and hearken not to the Unbelievers and the Hypocrites: verily Allah is full of knowledge and wisdom."

Sūrah al-'Ahzāb: 1

is specific to the Prophet -peace on him- and this would mean that the other believers are allowed not to fear God and obey the pagan and the hypocrites' wishes.

"Such elderly women as are past the prospect of marriage, there is no blame on them if they lay aside their (outer) garments, provided they make not a wanton display of their beauty: but it is best for them to be modest: and Allah is One Who sees and knows all things"

Sūrah al-Nūr: 60

For him, this verse orders Muslims to show chastity and avoid displaying adornment. However, he already praised the unrespectable Western clothes and
criticized the Islamic ones considering it abnormal. Where is the methodological coherence then?

"O Prophet! tell thy wives and daughters, and the believing women, that they should cast their outer garments over their persons (when abroad): that is most convenient, that they should be known (as such) and not molested. And Allah is Oft-Forgiving, Most Merciful."

Sūrah al-'Ahzāb: 59

The reason -according to him- for this verse is that during the Prophet's time in Madinah, some men used to look for (Tānā') (female slaves) at night. However, they could not differentiate between them and the free women. This caused hardship for the free women. So Allah said this verse to make it possible to differentiate between free women and slaves. As a result, the immoral men started to go for women who did not wear the veil and avoid women with the veil. This is supported by the fact that 'Umar used to beat slaves who imitated free women in their dress by wearing the veil.

Needless to say, in our current era we do not have slaves, so it follows that these verses do not show that Islam imposes the veil on women in general and that today's women are not asked by Islam to wear it.

"And say to the believing women that they should lower their gaze and guard their modesty; that they should not display their beauty and ornaments except what (must ordinarily) appear thereof; that they should draw their veils over their bosoms and not display their beauty except to their husbands, their fathers, their husbands' fathers, their sons, their husbands' sons, their brothers or their brothers' sons, or their sisters' sons, or their women, or the slaves whom their right hands possess, or male servants free of physical needs, or small children who have no sense of the shame of sex; and that they should not strike their feet in order to draw attention to their hidden ornaments. And O ye Believers! turn ye all together towards Allah, that ye may attain Bliss"

Sūrah al-Nūr: 31
It was mentioned during al-'Ifk incident. The writer believes the verdict in these verses is general and does not exceed simple advice. It does not contain any punishment in this life or in the hereafter. God's command, according to him, is when we have a clear order like in the following verse 14 of al-Jāthiyah and verse 53 in of al-'Isrā’.

"Tell those who believe, to forgive those who do not look forward to the Days of Allah: it is for Him to recompense (for good or ill) each People according to what they have earned.

Surah al-Jāthiyah: 14

"Say to My servants that they should (only) say those things that are best: for Satan doth sow dissensions among them: for Satan is to man an avowed enemy."

Surah al-'Isrā’: 53

His evidence is the fact that is that all that is illicit in Islam is shown in verses 151 and 152 of Surah al-’An‘ām. He supported his point of view by mentioning al-Jāhiz’s assertion that everything that is not made illicit in the book of Allah and the Sunnah of his Prophet is licit. He concluded by discouraging feeling jealous about one's wife (al-ghirah) in anything, which is not illicit and asserting that it is for man and women to chat at night and to talk to each other in the presence of guardians. To show the spread of this behavior among the Muslims, he mentioned the story of Jamil when he asked Buthaynah about something that could quench men's love for women. She

34The two verses are: “Say: "Come, I will rehearse what Allah hath (really) prohibited you from": join not anything as equal with Him; be good to your parents; kill not your children on a plea of want - We provide sustenance for you and for them - come not nigh to shameful deeds, whether open or secret; take not life, which Allah hath made sacred, except by way of justice and law: thus doth He command you, that ye may learn wisdom. And come not nigh to the orphan's property, except to improve it, until he attains the age of full strength; give measure and weight with (full) justice; no burden do We place on any soul, but that which it can bear, whenever ye speak, speak justly, even if a near relative is concerned; and fulfil the Covenant of Allah: thus doth He command you, that ye may remember.” (Surah al- An'am: 151-152).
informed him that when the lovers sleep together (fornicate), their love would be spoiled. Jamīl, then, took his sword and threatened to kill her (Buthaynah) if she gave in to him. During that time, Buthaynah’s husband and her brother were listening. They used to hate him but when they heard what he said, they trusted him and allowed him to sit with her.

The covering of the (Juyūb) means the covering of the chest. It does not require the covering of the head and the face. In the case of adornment, the jurists differed in defining its meaning. Some jurists say it means clothes while others add the face and the palms. Others affirm that it includes half of the arms. These differences among the jurists give us the right to oppose their interpretation. Thus, we can interpret the hidden adornment as covering what is believed in our modern times to lead to the seduction of men as preventing seduction is the objective of Islam.

He concludes that wearing the veil was the habit of the Persians and Turkish and was spread to the Arabic countries during the Abbasid governance and onwards through the Persian scholars. He supported his argument by narrating Ḥbn Baṭṭūṭah’s shock when the latter noticed in the Sahara of Morocco that the men there do not feel jealous about their wives. Women there, though they preserve prayer, do not feel shy to be with men. They even had male friends. If a man entered his house and found that his wife was with male friend inside, he would not deem it a bad thing. According to Ḥusayn ḤAmīn, this is all allowed in Islam while the current practice of Muslim men nowadays is an imitation of old traditions Persian. The present men stick to these traditions to
show their authority to release their tension caused by the political, social and economic oppression. 

6.2.2. Assessment:

What we can conclude in the end of this analysis is as follows:

1. Non-decisiveness of the writer in defining the term (al-Ḥijāb), which made him fall into contradictions:
   a. He used it in the beginning to refer to all women who follow the Islamic code of dress. It includes even those who cover all their body except the face and hands. We can see this in his condemnation of this kind of dress and his rejection of the Prophet's saying in this regard.
   b. Then he used the term (Ḥijāb) to refer to the veiled woman (Munaqqabah), that is the woman who believes that the whole body should be covered including the face and the hands. He says, "so that not even an ant's size of her body will appear".
   c. He used the term to mean women's staying in their homes. He said "the high class groups used to (tahjibu: hide) their women so that they would not appear to the people in public."
   d. This indecisiveness has serious implications. The writer would criticize something and afterwards adopt it and if necessary he would again criticize it the third time. This is because he wants to confuse the reader and make him accept the suspicions he raises and to defeat his opponents. For

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35 Ibid., 63-87.
36 Ibid., p.67.
37 Ibid., p.66.
38 Ibid., p.77.
example, the first type of (Hijab: covering) -the most widely used by Muslim women nowadays- was criticized by him in the beginning. He considers it as an abnormal phenomenon. Afterwards, he considers it as part of Gods' orders in his comment about verse 60 from chapter al-Nur. He says, "here is a command to abide by chastity and avoid showing beauty"\textsuperscript{39}, which shows his acceptance of this kind of dress. This is confirmed when he adopted the opinion of some scholars who accept women who reveal their faces. He says, "if the implication in the verse is to extend head cover to hide the face, the neck, and the chest, most of the Ulama will not agree that it is allowed to show the face\textsuperscript{40}.

However, towards the end of his argument, he changed his mind and criticized this kind of this dress accusing the jurists of creating (Ahadith: Prophet's saying) to support their view that women should cover their beauty. He says:

"They -the jurists- all resorted to create (Ahadith) and claimed that they had been said by the prophet. They added stories in his bibliography that entailed women (should) covering their beauty like 'Asmaa', the daughter of 'Abu Bakr who entered wearing thin clothes. The prophet ignored her and said to her O! Asmaa, when women reach the age when they start to have menstruation, only this should appear from her. He pointed to his face and his hands,"\textsuperscript{41}

2. The call to permissiveness and getting rid of Islam's verdicts: this is done at least from three sides:

a. His rejection of the implicit meaning of the Qur'an and the Sunnah.

The writer's rejection of (al-Sunnah) has been shown earlier. His rejection of

\textsuperscript{39}Ibid., p.81.
\textsuperscript{40}Ibid., p.84.
\textsuperscript{41}Ibid., p.86.
the Qur'ān is seen in considering it - according to his historical methodology – as outdated traditions. There are many examples that show this, among them his saying "the common belief that some situations are related to religion like the man's absolute right to divorce or the absolute right for polygamy...with the belief that it is necessary to develop these situations to be in harmony with the needs of the current era and its circumstances"\textsuperscript{42}

These verses clearly confirm that men control divorce. These are some verses:

"For those who take an oath for abstention from their wives, a waiting for four months is ordained; if then they return, Allah is Oft-Forgiving, Most Merciful".  
Sūrah al-Baqarah: 226

"But if their intention is firm for divorce, Allah heareth and knoweth all things".  
Sūrah al-Baqarah: 227

"When ye divorce women, and they fulfil the term of their (Iddat), either take them back on equitable terms or set them free on equitable terms".  
Sūrah al-Baqarah: 231

"When ye divorce women, and they fulfil the term of their (Iddat), do not prevent them from marrying their (former) husbands, if they mutually agree on equitable terms".  
Sūrah al-Baqarah: 232

"There is no blame on you if ye divorce women before consummation or the fixation of their dower; but bestow on them (a suitable gift)".  
Sūrah al-Baqarah: 236

"And if ye divorce them before consummation, but after the fixation of a dower for them, then the half of the dower (is due to them), unless they remit it or (the man's half) is remitted by him in whose hands is the marriage tie".  
Sūrah al-Baqarah: 237

\textsuperscript{42}Ibid., p.75.
"For those who take an oath for abstention from their wives, a waiting for four months is ordained; if then they return, Allah is Oft-Forgiving, Most Merciful".

Sūrah al-Baqarah: 226

"But if their intention is firm for divorce, Allah heareth and knoweth all things".

Sūrah al-Baqarah: 227

Moreover polygamy is also confirmed in the Qur‘ān. Allah says:

“If ye fear that ye shall not be able to deal justly with the orphans, marry women of your choice, two, or three, or four; but if ye fear that ye shall not be able to deal justly (with them), then only one, or (a captive) that your right hands possess. That will be more suitable, to prevent you from doing injustice.”

Sūrah al-Nisā’: 3

b. Misinterpretation; for example, he says that the commands in the previously mentioned verses are only advice and not commands and, consequently, no punishment will result therefrom neither in this life nor in the hereafter. Thus, it is possible that a man sits beside a woman or even to be in a private place with her - as he mentioned - and they talk and they keep looking at each other without getting any sin from this simply because they happened to be in the twentieth century when man and woman can sit in private without thinking of fornication. According to this modernist religious rule, a woman can show up with her sleeping clothes and expose her beauty to those who are not mentioned in the Qur‘ān - (Ghayr Mahram) the person who is allowed to marry her - and she will get no sin from this as the command to cover in the verses mentioned earlier is for advice only. In other

43Ibid., p.67-68.
Similarly, the pure (Sunnah) the accuracy of which is agreed upon is the creation of Persian scholars of the (Abbasid) reign since it calls for chastity. He forgot that the (Sunnah) was recorded before the (Abbasid) reign, whereas, the informative stories of ('Ibn Baṭṭūṭah) and the literary stories of (al-Jāhiz) are accurate and above doubt since they can be used to spread permissiveness and propagate social relations between males and females.

6.2.3. The Second Example, Muḥammad Shuḥrūr:

Muḥammad Shuḥrūr says: "It is time to get armed with critical thinking and revise all the jurists' statements about women"\(^{45}\). Therefore, he calls the Arab woman believer to correct her wrong concept about the Islamic dress. According to him, she should not dress in the present time based on the dress of the past and thus impose on Muslim women throughout the world the national dress of Arab women in the seventh-century. She should also know that the dress for Muslim women is according to the traditions\(^{46}\). It ranges from the minimum, which is the sleeping clothes and the maximum which is covering the whole body except the face and the hands. The first kind of dress is mentioned in the following verse:

"And say to the believing women that they should lower their gaze and guard their modesty; that they should not display their beauty and ornaments except what (must ordinarily) appear thereof; that they should draw their veils over their bosoms and not display their beauty except to their husbands, their fathers, their husbands' fathers, their sons, their husbands' sons, their brothers or their brothers' sons, or their sisters' sons, or their women, or the slaves whom their right hands possess, or male servants free of physical needs, or small children who have no sense of the shame of sex; and


\(^{46}\)Ibid., p.617.
that they should not strike their feet in order to draw attention to their hidden ornaments. And O ye Believers! turn ye all together towards Allah, that ye may attain Bliss.”

Sūrah al-Nūr: 31

Whereas, the second kind of dress is mentioned in this saying of the Prophet Muḥammad -peace on him-, "all woman (the body of the woman) is (‘Awrah) private parts except her face and her hands". Therefore, most of the women in the world are within Allah and his prophet's limits⁴⁷. However, the Prophet -peace on him- did not allow any woman "in any case to cover her face and her hands because the face of the human being is her identity...thus, we can notice that the dress of most women in the world is within the limit of Allah and his Prophet"⁴⁸. The beauty of women according to his understanding of the previous verse is of two types:

1. Object adornment: the beauty that a woman adds to herself like make-up and jewelry. He understood this from Allah's saying "O Children of Adam! Wear your beautiful apparel at every time and place of prayer " Sūrah al-'A 'rāf: 31.

2. Spatial adornment: found within women's make-up, that is part of what Allah created in her, it is of two types:

   a. Beauty apparent by creation like the head, stomach, back, legs and hands "that they should not display their beauty and ornaments except what (must ordinarily) appear thereof".

   b. Beauty hidden by creation, that is Allah hid it within the structure of women and her design, it is called (Juyūb) which is derived from (Jayb) like (Jibtu al-Qamīṣa -shirt-) which means hollow out its pocket, that is I made a

⁴⁷Ibid., pp.550-551.
⁴⁸Ibid., p.615.
pocket in it. (al-Jaybū) is a cut with two levels. The base form of (Jayb) is (Jawaba) which means to make a cut in something. Therefore, (al-Juyūb) in the case of women it refers to the clevage between the breasts, the armpits, the vagina in addition to the buttocks. These are the Juyūb that a woman has to cover "and to draw their veils over their bosoms". For this, he mentions that a woman should not feel embarrassed to show these parts to the men mentioned in the verse. These are: the husband, the father, the father-in- law, the son, the son - in- law, the brother, the nephew, the slaves and those who have no dark purpose when they look at women like the doctor and the immature child. The writer added another list like the grandson, the grandchildren, and the son of the nephew in addition to the son of the husband's son. All these people, according to him, are implied by the word (Nisā'ihinna) which -he believes- refers to the males and not the females. (al-Nisā') in the verse is the plural of (Nasī) (postponed) and not the plural of woman. (Nūn) is (li al-Tābi'iyah) - additional- like (Kutubuhunna) - their books - and (Buyūtihinna) - their houses -.

He continues his modernist analysis of what remains of the verse "And let, them not stamp their feet so as to reveal what they hide of their adornment". Stamping their feet -according to him- does not mean the act of women in the Pre-Islamic era, which let people hear the noise of the anklet but it means work. According to him, if the woman believer works as a dancer for - example -, she is not allowed to show her Juyūb (bosom). According to him all these deeds are allowed under social, geographical, and historical
circumstances except two: 1- striptease and 2- prostitution. In the conclusion, he talks about the old women who have no prospect of getting married mentioned in this verse:

"Such elderly women as are past the prospect of marriage, there is no blame on them if they lay aside their (outer) garments, provided they make not a wanton display of their beauty: but it is best for them to be modest: and Allah is One Who sees and knows all things."

Sūrah al-Nūr: 60

He explained that the women mentioned in this verse (al-Qawā'id) -reached menopause- are women who have been handicapped by sickness no matter how old they are. According to him, these women are allowed to take off their clothes completely in front of other people and to show their vagina and other pockets because they sometimes need sunbathing, washing and massaging.⁴⁹

6.2.4. Assessment:

These are the findings of being armed with critical thinking advocated by the writer. Only those who advocate permissiveness accept these findings. What is important now is to show the methodological confusion that leads him to have this intellectual abnormality. It can be summarized in the following points:

1. Methodological contradictions; these can be seen in the following aspects:

   a. We have already shown in the third chapter his contradictory views in this regard about the Sunnah. While he does not recognize the fact that the (Sunnah) is a source of legislation and evidence that shows right from wrong; and that it is simply a historical period that came to an end, he also rejects the agreed upon (‘Ahdith) accusing the (Sahābah) and the jurists of creating

⁴⁹Ibid., pp.606-616.
(‘Aḥādīth) and lying about the Prophet. However, in other places, he used some (‘Aḥādīth) as evidence to support his view such as in proving the minimum in giving (Zakāt) -giving alms- and such as in proving the maximum degree to which women should cover themselves.

What can be added here is the fact that his contradictions are clear from the fact that he sometimes shows the necessity to follow both Allah and the Prophet’s commands stating that "obedience to God and His Prophet in bounds (Ḥudūd) is compulsory"\(^\text{50}\), sometimes he rejects this rule and accepts only obedience to "God's bounds only and beyond that are only the bounds of people"\(^\text{51}\). To affirm this, he asserts that "the Muslim woman’s dress is only the one mentioned in Surah al-Nūr"\(^\text{52}\).

b. We have already shown in the third chapter that the writer does not recognize the existence of synonyms, deeming them as the remnants of dictatorship. Here he forgot this claim and considers the existence of synonyms as normal. For example, the three words (al-burūz: show up), (al-ẓuhūr: appearance), (al-maljā’: resort) have one meaning, that is (al-burj). He also considers that (al-ʿittyānu bi al-shayr’: bring something), (yaghshā: envelop) and (ghaṭṭa: cover) have the same meaning, that is (jalaba: bring)\(^\text{53}\).

c. Although the writer claims to be armed with critical thinking and accuses the traditional scholars of a lack of understanding\(^\text{54}\), we find him twisting and

\(^{50}\text{Ibid., p.615.}\)
\(^{51}\text{Ibid., p.612.}\)
\(^{52}\text{Ibid., p.617.}\)
\(^{53}\text{Ibid., pp.614-616.}\)
\(^{54}\text{Ibid., 608-616.}\)
turning when dealing with many issues to such a degree that the reader might have doubts as to whether he is mentally sound or not. So that we will not be accused of telling lies about him, we will provide this example that he repeats many times. He says: "The apparent adornment is what appears from the body of the woman by creation, that is, what Allah made apparent like the head, the stomach, the back, the legs and the hands. We know that Allah has created men and women naked without clothes"55. This means that most parts of the woman's body are not considered to be private parts. This is confirmed by his inserted sentence (Allah has created men and women naked without clothes). Afterwards, he talks about what remains not apparent. He says "between the breasts, the armpit, the vagina and the buttocks.... These are all the juyūb (bosoms). Allah has commanded the women believers to cover the juyūb (bosoms) covered by creation"56. We do not know why Allah commands the covering of these bosoms (juyūb) since they are already covered? Afterwards, he changes his mind and asserts: "He allowed them to show these (juyūb) bosoms"57. It is as if the writer, while he is writing this, is watching pornography.

The question that arises is: why women have been allowed to show these (juyūb) -bosoms- since they have been commanded to cover them. The answer is that the writer wants to challenge the traditional scholars by demonstrating that what is meant by (juyūb) is not the cutting of the shirt but

55Ibid., p.606.
56Ibid., p.607.
57Ibid.
between the breasts, armpit, the vagina, and the buttocks. His great evidence is that" this showing up occurs only to things which are originally hidden"58. It seems that according to this modernist understanding, the command to cover what is already covered is redundant and meaningless, as it was sufficient to limit the command to what is shown only.

He continued his permissive Marxist analysis by saying, "when these two verses were mentioned, woman was not naked and without clothes"59. Since "according to the traditions of the Arabs and the environment of the Arabic Peninsula ...she used to wear long clothes and to put a scarf on her head to save her from the heat of the sun"60.

So what happened when the Sūrah al-Nūr was revealed? What happened is that the Muslim woman did not change the way they dressed, "she covered her chest with the scarf on her head as the other (juyūb) were already covered (when she wore) according to her national dress"61. This is in agreement with the interpretation of most of the religious scholars"62. With what does he disagree? He disagrees with the belief that "the juyūb is the chest only" 63.

According to him, "we should not confuse Islamic dress with national dress"64. "The Islamic dress is only the one mentioned in Sūrah al-Nūr"65 which commands the covering of "between the breasts, under the armpits, the

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58 Ibid.
59 Ibid., p.617.
60 Ibid.
61 Ibid.
63 Shuhrūr, Muḥammad (1990), op. cit., p.617.
64 Ibid.
65 Ibid.
sexual organ and buttocks." It is as if the Arabs before Islam showed more chastity than Allah. Allah is greater than what the wrongdoers say! Afterwards, he surprises us with a supposition to prove that the religious scholars are wrong and that his opinion is right. He says "this is only possible if we assume that the Arab women before, Sūrah al-Nūr and Surah al-Āhzāb revelation, were totally naked and without any clothes; then they wore what they wore after these two verses were mentioned, and this is objectively wrong." However, the writer could not avoid contradicting himself when he suddenly assumed that what is not objective is a necessary rule "in order to understand Sūrah al-Nūr we have to suppose that there was a woman wholly naked who wants to join Islam." 2. His ignorance and selection: in addition to his lack of proficiency in Arabic, he likes to select what suits his aims. However, and because if his ignorance, he usually chooses what goes counter to his aims. The best examples of this are these two examples:

a. We will try to analyze the way he analyses the meaning of (juyūb). He says "this hidden part is the (juyūb). (Al-Jīb) is derived from (jayaba). We say (jubtu) the shirt means (qawartu jaybahu) and (jayabtuhu) means I made pockets (jayban) for it. The (jayb) is a pocket with two parts and not one. Because (jawaba) - the base form of (jayb) - has one meaning, that is: to cut through something and to revise the talk, the question and the answer. The

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66Ibid.
67Ibid.
68Ibid.
pockets for women has two levels or two levels with a hole in it and that is between the breasts, below them and below the armpits, the sexual organ and the buttocks. This analysis shows that he wants to mislead the reader and to achieve his biased goal through two means:

- He mentioned some information as through it was confirmed. This is shown in the explanatory sentence (the pocket has two levels and not one). This information is his creation and does not exist in any Arabic dictionary. He needed it to reach his conclusion, which is "(juyūb) for women have two levels or two levels with a hole".

- The fabrication: the writer in order to support his point of view, makes up two different materials. Because he lacks proficiency, he falls into some contradictions. The first part of his explanation is taken from 'Ibn Fāris' book al-Maqāyīs (and al-jaybu is derived from jayaba as we say jibtu al-Qamīsa 'Ay qawwartu jaybahu wa jayyabtu hu 'Ay ja‘altu lahu jayban, which means to make a hole for the shirt and to make a pocket for it). However, he purposely dropped one sentence that opposes his goal and that is (al-jaybu is the pocket of the shirt). This expression mentioned by 'Ibn Fāris and repeated by him in his other book (al-Mujmah) "the pocket is for the shirt" goes against the writer's claim and misinterpretation. The second part is this (because the base form of jayb is (jawaba) in the Arabic tongue; it has one

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69Ibid., pp.606-607.
meaning which is to make a hole, revision of the talk, the question and the answer). This explanation is taken from Chapter (j/w/b)\textsuperscript{72} with some modification that is, with an addition of one sentence (because the base form of jayb is the verb (jawaba)). This claim contradicts the previous claim of the writer when he mentioned that the al-jaybu is derived from (jayaba). If jayb is derived from (jawaba), why then have the linguists differentiated between them including 'Ibn Fāris. Many linguists have drawn attention to this issue so that no confusion can arise. 'Ismā'il 'Ibn 'Abbād says that "their saying: (jubtu jayba) made the pocket of the shirt is not part of this section root because the essence of (jubtu) is (derived) from (jāba) and (yajūbu); the middle letter of (al-jaybu) is (yā') because of their saying (juyūb). In this case, it is from (sabiṣa) and (sibāṭrum)\textsuperscript{73}. 'Ibn Saydah says, "And (jubtu) the shirt is (qawwartu)- to make a hole in- its pocket and not from the term (al-jayb) because it (jubtu) is (originally) from (al-wāw) and (al-jaybu) from (al-yā')\textsuperscript{74}.

The other contradiction is his saying that (jawaba) has one original meaning and when he went into detail he mentioned two original meanings 1) the revision of the talk (murāja'ah) and 2) making a hole (kharq). Probably, his making this mistake is due to his lack of knowledge of the terms used by the preceding linguists. What 'Ibn Fāris actually says is "(al-jīmu), (al-wāwu) and (al-bā'u) one root, and that is to make a hole in something... and

\textsuperscript{72} Ibid., vol.1, p.49.
(probably) another root, that means, the revision of the talk; we say he talked to him and he gave him (with) an answer (fa 'ajābahu jawāban)\(^75\). He understood from "one root" only one, while in fact it means the more plausible one. Otherwise, 'Ibn Fāris would have contradicted himself.

b. The other example is his claim that their women (nisā'īhinna) means males and not females. He says:

"their women (nisā'īhinna) here should mean the males and not the females. The (nūn al-niswah) should be understood as followed to it (tābi'iyah) only as when you say kutubuhunna (their books) and buyūṭuhunna (their houses). This could make sense only if we understand al-nisā' (woman) as a plural of (nasi'ī) which means the postponed (al-mustajad "al-muta'akhkhīr"). The postponed here not mentioned in the zīnah verse is the grandson, and the grandchildren...and the grandson of the husband\(^76\).

In order not to get lost in the writer's nonsense, we shall limit our analysis to the explanation of two things from this example:

- Methodological contradiction, one of the writer's methodological principles is that there are no synonyms in the Arabic language. However, he contradicted himself when he mentioned that both (al-mustajad) and (al-muta'akhkhīr) mean (al-nasi'ī: made late). Thus, it is clear that the modernist analysis asserts something and then contradicts it.

- His ignorance of the Arabic language: the writer's ignorance of the Arabic language is clearly manifested in his lack of differentiation between (harakat: vowels) and specifically between the 'A' (al-fathah)and the 'I' (al-kasrah).

Unfortunately, he could have used an old version of the dictionary (Maqāyīs


\(^{76}\)Shuhrur, Muḥammad (1990), op. cit., p.609.
al-Lughah) some words in which are not vowelized. When he opened the dictionary (al-Mu'jam) in the (nasiya) root-section he found this explanation "and the (al-nasī'ah) is your selling something (nasā'an) and the nasā'an is the postponement". He thought (nasā'an) is (nisā'an) which means 'women' Or maybe this confusion happened to him when he opened al-Fārisī's book (Mujmalu al-lughah) and he found this expression "and the (al-nasī'ah) is your selling something (nasā'an) and (al-nasā'u) is the postponement". He thinks that the word (al-nasā'u) in this expression is the same one (al-nisā'u) plural of woman ('imra'ah). He failed to note that the first one is a singular participle (maṣdar ā'imā) of the verb (nasa'a) while the second is a noun and plural of woman ('imra'ah) without regulation ('alā ghayri qiyās). However, what shows that the writer is truly ignorant of the Arabic language is the fact he explains the word al-nasā'(postponement) -which is a (maṣdar)- with the word (muta'akkhir) (he is late) an adjective participle ('ism fa'il) and which corresponds to adjective participle, that is (nāsi) made late. This entails dangerous consequences that the writer could not think of, and that is: in order that the writer's claim be true we have to suppose that the word (nisā'ihi'nna) (wives) in the verse is spelled (nāsi'ihi'nna) so that it can correspond to the ('ism fa'il) (Muta'akkhirin) (they are late). Still, we would face an other problem, which is no less dangerous than the first one, that is ('ism fa'il) (Muta'akkhirin) (they are late) is derived from (ta'akkharu) a transitive

verb with the preposition (harf al-jar). Its participle (al-ta’akhkhur) corresponds in meaning to (intasa’a); we say “(intasa’a al-qawmu, ’idhā ta’akhkhāru wa tabā’adū)”\(^79\) which means if the people are late and become far. While (nāsi’) derived from (nasa’a) -an transitive verb- corresponds in meaning the verb (‘akhkhara); its adjective participle (’ism fā’il) is (mu’akhkhir). We say “(nasa’tuhum ‘anā: ’akhkhartuhum)”\(^80\) I made them late. Thus, the pronoun of (jam‘ al-mudhakhkhir al-ghā’īb) means (’ism fā’il), that is (al-mu’akhkhirīna): made late. The ignorance of ignorance is clearly seen in his belief that (nūn) in the pronoun (hunna) from the word (nisā’ihinna) is an element that the meaning of the word depends on. He says: “Nisā’ihinna here must refer to the males and not the females and (nūn al-niswhah) is only for tābi’iyah (additional) as when you say (kutubuhunna) or (buyūtuhunna)”. This quotation shows his contradiction. His statement that the (nūn) is not for females is contradicted by his saying the (nūn al-niswhah). Is it that the (nūn al-niswhah) is different from the (nūn) for (’ināth)- both nūns have the same mark attached to the verb to indicate the plural feminine-? His affirmation that the (nūn) is for (tābi’iyyah). This term has never been mentioned before, and we do not know from where he got that term. Probably, based on the examples given (buyūtuhunna, kutubuhunna), he means that the term means additional, that is, adding books, rooms and houses to the pronoun (hunna). In fact, scholars have two different comments about (hunna) 1) some of them asserted that the pronoun is only (hā’) while the (nūn) is a mark for

\(^{79}\)Ibid.  
\(^{80}\)Ibid.
female. 2) Others believe that (hā') and (nūn) make up one word. Based on these two views, the (nūn) has only one function and that is marking the female. In other words, (nūn) does not have any function other than but marking the female whether it is attached to (hā') or not. However, supposing that there is such a term as (tābi‘iyyah), does this prove that (nūn) is a mark for the male and not the female? And if (nūn) is for (tābi‘iyyah) what is the (‘i‘rāb) function of the pronoun (hā’)? And is it a mark for male or female?

All these strange interpretations along with all the results that he came up with show that he is using the contextual methodology, which is not in agreement with the methodology he claims to use. The writer has claimed that he wants to use a methodology that rejects the existence of synonyms because he believes that words have stable and very specific meaning and do not change when we change the context. Does not this show his contradictions and his methodological incoherence in addition to a lack of objectivity and respect for the reader's intellect?

6.3. THE THIRD ISSUE: PUNISHMENT OF THEFT

6.3.1. The First Example, Şādiq Bil‘id:

Since the author has asserted that the jurists have divided stealing into two categories:

The major one is called (harābah) banditry and the small one is called (sariqah) theft

and since he used the jurists' view of the first one to criticize their jurisdiction of the

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second one, our analysis will combine the two categories to facilitate the research and to give the reader a picture of how the writer came up with his conclusions.

1. The writer begins his analysis of ḥarābah or what he called the major theft wondering about what extent to which we could apply it in practical life. Then, he mentioned the two verses related to this punishment, which are as follows:

"The punishment of those who wage war against Allah and His Messenger, and strive with might and main for mischief through the land is: execution, or crucifixion, or the cutting off of hands and feet from opposite sides, or exile from the land: that is their disgrace in this world, and a heavy punishment is theirs in the Hereafter; Except for those who repent before they fall into your power: in that case, know that Allah is Oft-Forgiving, Most Merciful."

Sūrah al-Mā‘idah: 33-34

According to him, the reason for the revelation of these two verses is that

"The prophet -peace on him- ordered the arrest of a group of people who stole his cattle and killed the shepherd. The Prophet was very angry as he was generous to them and treated them nicely. The Prophet ordered the cutting off of their legs and their hands besides burning their eyes with fire. They died. The verse was revealed so as to issue a verdict different from what the Prophet said".

He believed that to look into the legislative content of this verse would help us come up with two problematic issues about the scientific value of the traditional Qur'ānic explanation. These two problematic issues are as follows:

a. Whether the verdict mentioned in the above verse is general or specific to the Prophet and limited to the period when he was alive. According to him, the jurists have two different views:

83 Ibid., pp.194-195.
• Some believe that the verdict of (ḥarābah) is general and includes everyone who fought against the Muslim community and so on.

• Some believe that verdict is specific to that event and limited to the Prophet and the period when he was alive. According to him, the second opinion is the right one. He gives the example of some contemporary writers, like Muḥammad Saʿīd ‘Ashmāwī, who believe that such a verdict is no longer suitable. Its suitability ended with the Prophet's death. The writer believes the accuracy of this opinion not only because of the scientific method used to interpret this verse but also because of the accuracy of the attitude that we should adopt towards such a type of text. Al-ḥarābah is related to the event that the Prophet witnessed. It is also safe to limit the suitability of such a verdict to the Prophet's time, as the latter was the only one to receive divine guidance, which is no longer found nowadays. Therefore, the traditional jurists' interpretation and assumption that the verdict issued by the Prophet is general is incorrect and should be rejected. To confirm the historicity of the verdict and its specificity to the Prophet's time, he poses the second question:

b. If we assume arguably that the verse is general then it would be problematic to define the direct object (mafrūl) of the verse that follows, that is verse 34. The writer believes that this verse shows the historicity of al-ḥarābah verdict and that it represents a conditional legislation and not an absolute one. This is for the following two reasons:

• The existence of the exception (ʾillā al-ladhīna; except those) in the verdict in the above mentioned verse, in addition to the expression (min qabli
'an taqdīrū 'alayhim: which means before you catch them,) contributes, to the clarification of the exception and relates it to the circumstances surrounding the event. This means that the exception is valid as long as there is regret on the part of the culprit. According to him, this exception is absolute and is not open to any interpretation. And this is for two reasons: First, because the exception is conditional to the culprit's regret and second, the exception is the rule (ḥukm) that should be followed because it reprents what Allah wants "know that Allah is Oft-Forgiving, Most Merciful".

- The Prophet's companions (Sahābah) used to do so as they used to accept the repentance of the culprit as long as they did not catch him. This shows that the criminal had control over his fate and could avoid punishment if he decided to. Some of the great jurists went farther than this when they said that the verdict is abolished by the exception by the following verse 34. This opinion, besides being consistent with the concept of repentance in Islam, is also consistent with the historical event and its circumstances.

2. If this is Islam's verdict concerning the major theft, what about the minor one?

To answer this question the writer has tried to analyze the following verses:

"As to the thief, male or female, cut off his or her hands: a punishment by way of example, from Allah, for their crime: and Allah is Exalted in Power. Full of Wisdom. But if the thief repent after his crime, and amend his conduct, Allah turneth to him in forgiveness; for Allah is Oft-Forgiving, Most Merciful."

Sūrah al-Mā'īdah: 38-39

The first thing he started with is to remind the reader of the meaning of (tāba: repent) and (zulmihi: his transgression). The first word, according to him, means
to give back the stolen thing while the latter means after he stole. Thus, the meaning is clear to him and he does not need to go into traditional jurisdiction details. He moved to the analysis of the issue of methodology and the origin. According to him, from the origin side, the issue of theft is a proof of the difference between what the Qurʾān says and what the jurists claim to find in it. From the methodology side, the jurisdiction related to the issue of theft is evidence of the failure of the jurists' interpretation methodologies, as they claim what the Qurʾān does not say so that they may achieve their purpose. He tried to defend these two things in the following ways:

a. The issue of origin: we can observe the following things:

- The analysis of the text in the historical context. He asserts that even though the Qurʾān accepts the traditional legislation (al-ʿurf) of the pre-Islamic era, and his acceptance of this severe punishment compared with the current development of our values and judicial institutions, it seems logical that we take into consideration the context surrounding it. This context is characterized by the dominance of power, mercilessness and lack of stable judicial institutions. Amputation then was the effective method to keep peace and preserve people's property.

- Though the Qurʾān did not come up with anything new concerning the punishment, he revolutionized it by making it a priority to improve the values and the souls and thus he gave an opportunity to those who regret to change. “But if the thief repents after his crime, and amends his conduct, Allah turneth to him in forgiveness; for Allah is Oft-Forgiving, Most Merciful”
exception eliminates the previous punishment and opens the way for the purification of the soul.

b. The failure of the traditional methodology: according to him, it is manifested in the fact that the jurists' methodologies were incoherent. In other words, jurists both in the past and the present have not used the same methodology to deal with two verdicts of the same kind, that is the major theft (harābah) and the minor one (sariqah). In the past, for example, we find 'Ibn al-'Arabī produced 14 pages of comments about verse 38 while he did not talk at all about verse 39 - as if it does not present any Islamic verdict - even if it is related to 38 verse by (faman) the letter (fā) means (al-'istidrāk wa al-'istithnā) which implies a follow up - and an exception-. He does not explain why repentance exists in the major theft and does not exist in the case of the minor theft. 'Ibn Ḥazm al-'Andalusī believes in the abrogation (Naskh) of the verse of (al-harābah) and accepts the exception. Nevertheless, he does not mention at all the two verses related to theft. He wonders about the reason behind this juristic contradiction in dealing with two similar things. The modern jurists have not been objective in dealing with this issue either. Al-Shaykh al-Sāyis, for example, though he accepted the big differences between the jurists on this matter, did not dare to discuss the issue and limited himself to asserting that the majority of jurists believe that repentance does not guarantee that the thief will be spared the punishment. The conclusion that the writer comes up with is the fact that the 'Ulamā' usually misinterpret the Qur'ān so that they would impose their own opinion even though their
opinions are against the explicit meaning of the Qur'ān and the logical analysis.\textsuperscript{84}

6.3.2. Assessment:

In fact, the writer is a good example of the authors who use incoherent methodology, selection and lies in their studies.

1. Fabricating lies: it is difficult to understand on what basis the writer changes the facts and tells lies. He said for example that 'Ibn al-'Arabī did not mention even "one word about verse 39"\textsuperscript{85}. The truth is that he mentioned 1 page and not one word about the verse 39. He says:

"if amputation is a must since it is God's right, nothing should stop it including the culprit's regret and that is - the issue 22 -. Some shafiites say: repentance does stop the application of God's rights and His verdicts and claim that it's the opinion of Shafiī. They stick to Allah's saying "Save those who repent before ye overpower them. Our 'Ulamā' said: this is exactly our proof. When Allah mentioned the verdict of the fighter said " Save those who repent before ye overpower them" He immediately related it to the verdict of the thief saying "But whoso repenteth after his wrongdoing and amendeth, Lo! Allah is Forgiving, Merciful" if his wrongdoing was in the verdict, wont the verdict be different? O! shafiites, Allah is great! Where is the juridical accuracy of your Islamic verdict you derive from the unclear (problematic) issues? Don't you see the arrogant fighter, showing his arms? The leader (of the society) lacks enough horses and warriors to fight with him. How can he be spared the punishment once he regrets equating between him and the non-believer who is forgiven of all the wrongdoing he committed before becoming a Muslim? While the thief and the fornicator are within the reach of the Muslims and the reach of the Imam, what, then, can free them from (the punishment) that should be performed against them. How can this be said about the fighter when hey are different in terms of the status and wisdom?\textsuperscript{86}"

\textsuperscript{84}Ibid., pp.195-203.
\textsuperscript{85}Ibid., p.200.
How could the author miss all these comments? Is this not a mere false accusation? The strange thing is the writer speaks as if he has read what 'Ibn al-‘Arabi says. He seems to be totally confident of himself and even shows the number of pages. However, he surprises us with his comments in the footnote that show that he didn’t look into the book of 'Ibn al-‘Arabi. He says: "some of the proofs that the traditional scholars have mentioned are puzzling. Like what 'Ibn al-‘Arabi says according to what 'Ibn 'Ashūr says that...the fighter is protecting himself and has the help of his power, while the thief and the fornicator are within the grasp of the Muslims". Here he does not refer to 'Ibn al-‘Arabi directly but takes his information from 'Ibn 'Ashūr as if he did not mention earlier that 'Ibn al-‘Arabi did not make even one word of any comment about this issue. Does not this show his playing and selection?

2. Lack of objectivity: it is known that the author and other modernist writers believe that the Islamic law does not suit our modern era because they see it as historical law that dealt with an underdeveloped society that lacks the appropriate judicial system and other institutions. This is what the authors mentioned in different places. For example, concerning the verdict of stealing, he says:

"Even though this punishment seemed to be harsh in the light of the development of our judicial institutions, this punishment is justified and seems to be logical taking into consideration the natural and human environment of that society characterized in general by force and harshness. Also this punishment is justified taking into consideration (their) life circumstances in a social environment that"

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89One of those modernists who tried their best for more than two decades to establish such ideas as these in the Arab World is: Muhammad Sa‘īd al-‘Ashmāwī in his books such as ‘Usūl al-Sharī‘ah, al-Khilāfah al-Islāmiyyah, Ma‘ālim al-Islām and al-Ribā wa al-Fā‘idah fī al-Islām.
lacked judicial institutions. As a result, cutting off the hand and causing paralysis was a deterrent against stealing." 90

Therefore, the author has tried to criticize the ‘Ulāmā’ and establish with the other modernists a new understanding of the Qur’ān that suits the kind of modernism they aim at. All this is according to the principle "the end justifies the means" even at the expense of scientific integrity and objectivity. He usually takes the expressions of the ‘Ulāmā’ out of context to serve his purpose. For example, in the case of (harābah) he creates an illusive question and that is "shall we consider the verdict in the two verses mentioned in the Qur’ān general or specific to the Prophet (peace on him) and responding to his circumstances"91. He falsely accused the scholars of having contradictory opinions. He says: "the jurists have been divided into two in their answering this question. Lots of them have considered the verdict general and they considered the (harābah) a complete punishment. Thus, jurisdiction assumes that this verse is the reason behind forcing the verdict on those who fight the community and resort to gangsterism and so on"92. After this, using lies, he attempts to impose his ideology saying:

"other ‘Ulāmā’ have a different opinion. They say that this verse is specific to a specific event and to the prophet - peace on him -. ‘Ibn ‘Arabī, as a case in point, mentioned that (al-Layth) said that this verse was (mentioned) as a blame to the Prophet for -what he did- concerning the (al-'Irfīyyūn); and al-Qurṭubī quoted that ‘Ibn al-Zinād93 said that the Prophet when he cut off the hands and burnt the eyes of those who stole his camels, Allah blamed him and this verse was revealed"94.

90Bil’id, al-Ṣādiq (1999), op. cit., p.199
91Ibid., p.195.
92Ibid.
None of these scholars said the verdict mentioned in the verse is limited to the case that happened to the Prophet and no other Muslim has to apply the verdict of the verse. On the contrary, they all say that the Islamic verdicts are suitable to every place and every time. The author himself is good evidence. He has made it clear that he has a project that is against the "traditional perspective". What he cited from the ‘Ulama’s opinion was in the context of explaining the cause behind the revelation of this verse. They mentioned five reasons, among them the one he cites. The writer ignored the others for the sake of suggesting that the verdict in the verse is no longer suitable for our era ignored by the writer. The jurists mention these reasons in order to explain the way they would apply the rule according to circumstances and not in order to cancel it. They believe that the important thing to keep in mind when dealing with the language of the Qur’an is the general meaning conveyed by the words and not the specific cause that led to the revelation of the verse in question. The writer himself admits that "the rule that the traditional jurists adopted and which states that what matters is the general word (the general meaning conveyed by the word) and the not the specific cause (that led to the verse revelation) "should not be depended on".

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The strange thing is that the author, because of his bad intentions, restricts his narration from al-Qurṭubi to the side which he believes serves his purpose and does not mention the other side that shows the reason 'Abū al-Zinād mentioned this narration: "when he finished his sermon and was warned against the incident (al-muthlah) he did not come back to it"\textsuperscript{99}. This shows that the verdict is general and that the blame, if correct,\textsuperscript{100} was on the al-muthlah that happened before the verdict and not after. This is explained by 'Abū al-Zinād's "he did not come back to it" which means that the punishment mentioned in the verse was applied in all the cases that happened after that incident and not that the punishment is "specific to one incident and specific to the Prophet"\textsuperscript{101} as the author claims.

3. Methodological contradictions: the rule that the author claims to abide by is relating the verdict to the reason behind its revelation. "It is clear that any understanding of the Qur'ān should take into consideration its context and the events that led to its revelation. And, therefore, understanding a certain verdict requires an understanding of the event's entailments. It is not correct to come up with a certain verdict without knowing the incident related to it"\textsuperscript{102}. However, the writer contradicts this principle because they do not support his argument and do

\textsuperscript{100} 'Ibn Ḥazm, ‘Aḍī ‘Ibn 'Ahmad 'Ibn Sa‘īd (1988), al-‘Isāl fi al-Muḥallā bi al-‘Āthār. ‘Abd al-Ghaffār Sulaymān al-Bandārī (editor), vol. 12. Beirut: Dār al-Qutub al-‘Ilmiyah, p.287. In this page 'Ibn Ḥazm had contested the authenticity of this ḥadīth saying: "As to the 'Abī al-Zinād's narration (ḥadīth) is mursal (disconnected to the Šahābī) and there is no evidence in the mursal. Its expression is very detestable because it mentioned that the Prophet was admonished ('Atabahu) by his God in the verse of Ḥarābah. There is no basis of ('Itāb in this verse because the expression of ('Itāb) is like the one of Allāh saying: (Allah give thee grace! why didst thou grant them exemption) Surah al-Tawbah: 43".
\textsuperscript{101} Bil‘id, al-Šādiq (1999), op. cit., p.196.
\textsuperscript{102}Ibid., p.294.

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not agree with his logic. The most important thing for him is to humiliate the
‘Ulamā’ and to prove that the Qur’ān deals with problems of the past that are not
related to us. Thus, they are good only for historical study purposes. On the
contrary, the Prophet’s saying on this matter support what the ‘Ulamā’ say and
show clearly that the verdict for stealing is general and cannot be canceled once
the culprit repents. Al-Bukhārī narrates in chapter al-Tawbah that ‘Ā’ishah said
"the Prophet - peace on him - cut off the hand of a woman; she kept on coming
afterwards. I talked to the Prophet about her need. She repented sincerely”103.
Repentance then was after the cutting off of her hand. This is supported by the
narration of (al-Nisāʾ) which quoted that

"a thief was brought to the prophet and admitted to have stolen. But
no possession was with him. The prophet said to him: I do not think
that you have stolen. The man answered: I did. The prophet ordered
the cutting of the man’s hand. He said to him: Say: I ask God’s
forgiveness and I repent. Then he (the prophet) said: May Allah
forgive you”104.

If repentance could stop the punishment, he would not have executed him. The
context shows that the man’s confession is proof that he repented. Another
narration by ‘Ā’ishah mentions that:

"Quraysh was confused about the (case) of a woman from banī
Makhzūm who stole. They said: Only, Osama - the Prophet’s
beloved - dared to talk to him about her. He talked to the Prophet
asking him if he could spare someone from being executed
according to Allah’s command. He (the Prophet) stood up and said:
O! mankind! those before lost the right path because they used to
punish the weak if he steals and spares the honorable from
punishment if he does. I swear that If Fatima, the daughter of
Muḥammad - the prophet - stole I would cut off her hand.” 105

103 Al-‘Asqallānī (1986), op. cit. vol. 12, pp. 110-111.
Turāth, p.68.
The strange thing is that the writer himself mentioned this *hadith* in the beginning under the title "the holy *Qur’ān* cares about the weak." Mentioned by ‘Ibn al-‘Arabi\(^{106}\), whom he accused of being a fanatic and one who contradicts himself, on the matter of theft. Could the writer then accuse the Prophet of the same thing of which he accused the ‘Ulamā’? That is being opposed to the *Qur’ān* and being an extremist in applying Islamic law.

The irony is that the writer, as a result of his unclear and ambiguous methodology, keeps on coming up with accusations without providing any reason. As an example, he praised the ‘Ulamā’ for accepting the repentance of the fighter before he is defeated. He claims that this opinion is the right one\(^{107}\). In the case of theft, he insulted them and accused them of bad intentions. He asserted that the Ulamā’ are extremists and use an inaccurate methodology in addition to misinterpreting the *Qur’ān* to defend their selfish interests\(^{108}\). Supposing that this accusation is accurate, what are the selfish interests that the Ulamā’ want to achieve when they did not deem the thief’s repentance as a reason to spare him the punishment? This is what the writer should explain methodologically or else his argument is meaningless. More important, is this question: what made the Ulamā’ abstain from taking advantage of the punishment of (*al-ḥarābah*) to achieve their selfish interest and, therefore, to consider the fighter’s repentance to be sufficient to stop the punishment bearing in mind that the *ḥarābah* -as he asserted- is a major

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theft and there is no doubt that its social, political and economic effects are bigger than the minor one.

Other examples of his contradictions are his statement, "this shows that the Qur'anic verdicts are limited to specific (issues), and do not allow to move to the general (issues)"\textsuperscript{109} which contradicts his saying, "the Qur'an came with not only specific verdicts but with general ones also. These are the principles characterized by generality and comprehensiveness, which make a permanent basis for the law from which other detailed rules can be derived. It could be, then, the stable basis for the legal system"\textsuperscript{110}. And his saying, "the lack of the theoretical trend and the dominance of the experience trend in Qur'anic legislation was not an isolated matter at the time of the Prophet or before. These societies had little legislation in general. In the tawrāh, for example, the legislative laws are brief."\textsuperscript{111} He forgot or maybe he pretended to forget that before that he had spoken of a complete legislative system in the Roman, Babylonian and Jewish societies. He says:

"The oldest civilization in history like Sumerian, the Babylonian, Ashyrian and even the Jewish, the majority of it contains materials related to civil law and you will find the same content in a more developed and complicated way in the Roman law.... And also the Jewish law.... It contains in the law of (dealings) the same known materials, that is, the civil law (the law of the family, the law of crime. Compared to other laws, the Jewish law is an extraordinary special case. The scope of this research does not allow to go into details to show the historical circumstances specific to it."\textsuperscript{112}

\textsuperscript{109}Ibid., p.292.
\textsuperscript{110}Ibid., 310.
\textsuperscript{111}Ibid., p.292.
\textsuperscript{112}Ibid., pp.142-144.
Concerning the *Qur'ān*, it became afterwards a rich source of theories and legislative principles. He says: "These general principles have great values in the *Qur'ān* and specifically the legislative verses.... It is sufficient to cite, for example, the basic principles like justice, and telling the truth".¹¹³

6.3.3. The Second Example, Ḥusayn 'Aḥmad 'Amīn:

The author starts his analysis of this issue with general remarks in which he warned of the "danger involved in interpretation which is, in fact, not more than playing tricks with some of God's verdicts and finding a way to evade its application".¹¹⁴ He believes that this trend does not serve any one but the orientalists and the colonizers who find a means to make our people adopt more and more of Western civilization and its systems. He believes that the right thing to do is to hold to the apparent side of the texts exactly like (*al-Ḥanābilah*) and (*al-Ẓāhiriyah*) on condition that they are free from intellectual stillness and narrow mindedness. He gave two examples that show how interpretation opposes the real meaning of the text. The first one states that cutting off the hand in the verse aims at providing a good source of income that prevents resorting to stealing. The second one states that the application of the verdict is limited to the existence of the Islamic society, which provides for the well-being of people and abolishes the reasons that led to looting. He considers that all these interpretations are mere deceptions and false rhetoric, which oppose the clear meaning of the text. Allah says: "As to the thief, male or female, cut off his or her hands: a punishment by way of example, from Allah, for their crime: and Allah is

¹¹³Ibid., pp.310-311.
¹¹⁴'Amīn Ḥusayn 'Aḥmad (1992), *op. cit.*, p.49.
Exalted in Power. Full of Wisdom" Surah al-Māʾidah: 38. The wise opinion "can be summarized in one expression: clear and firm confrontation with a clear and firm text". Then, he begins explaining this clear confrontation in the following issues:

1. The background of the text; the kind of property widespread in the Arabian Peninsula in the Jāhiliyyah and the Prophet's time is a mobile property, when the Bedouin moves from one place to another he used to take with him all that he owned. Thus, an aggression against it is an aggression against his life. Being disrespectful of agriculture and other professions and considering them a waste of time, he used to resort to looting. Stealing was among the activities widespread at the time. It was specifically targeted at camels, which are the backbone of the Bedouin life. Being so, any form of aggression against them could result in disasters and wars that could last for decades between tribes. When Islam came, it was preparing for a strong struggle with the other nations. It imposed the amputation of the hands of the thief so as to cut the root of this malicious disease that could threaten the unity of the newly formed society.

2. The development of events; after the death of the Prophet, the land of Islam became wider and involved many new societies with different civilizations and with different economic and social systems. The mobile property no longer existed and the Arabs ceased moving about as before. It was no longer a big problem if someone lost his camel; and theft became no longer such a widespread and dangerous crime. Within these new circumstances, the jurists found that they faced a clear and firm text that imposes the cutting off of the hand of the thief.

\[115\text{Ibid., pp.49-51.}\]
\[116\text{Ibid., p.51.}\]
According to him, the jurists had to clearly state that some verdicts mentioned in the Qur'ān were closely related to the circumstances of pre-Islamic society and the time of the Prophet only. Therefore, the other societies and the following generations had the right to choose their own law according to the spirit of Islam, its objectives and goals without being forced to keep to the old form of jurisdiction mentioned in the Qur’ān. According to him, it was compulsory to do so as it would have achieved the same results achieved by the cutting off of hands at the time of the Prophet.

Although the jurists knew that the old society no longer existed, they were not true themselves and thus they resorted to interpretation so that they would come up with a compromise between the Qur'ānic verdicts and the environment they were living in. However, their interpretation was but a limitation of the clear and firm Qur'ānic texts. Because of the differences between the different facets of the social environments, they had different opinions as to the conditions limiting the application of the texts.

3. Limitations and conditions; the author cites about forty conditions that could stand against the application of the punishment of amputation. According to him, the jurists invented all these conditions to avoid the application of the Qur'ānic verdict. This made them replace it by (Ta‘zīr) (chiding) which is mentioned neither by the Qur’ān nor by the Prophet. He believes that even though it might seem that by doing this, the jurists should be thanked, he does not thank them or feel grateful to them because he believes that they opposed the Qur’ān and misinterpreted it based on their false guesses. The right view that should be
adopted is to follow the spirit of Islam and not to blindly follow the sporadic verdicts. This view will preserve Islam and keep it suitable for every place and every time. It could also attract our enlightened youth to it and preserve the dignity of people and individuals. In addition to this, it could also prevent wicked people from making false rhetoric and trading with religion.\textsuperscript{117}

6.3.4. Assessment:

It is clear that the writer finally - after so many twists and turns- ends up by abolishing Islamic law. For him, to stick to the Qur'\textsuperscript{ā}nic texts is but a recognition of their historical value. These texts were produced for the purpose of dealing with a specific reality valid a thousand years ago. Any use of them to deal with our reality is an abuse of them. Thus, the right decision to make about them is to put them in the museum of history. It is clear that what he says is against Islam and its objectives. What matters here is to show some of the writer's contradictions:

1. What are the methodology and the logic that made the writer consider any interpretation and explanation of the Qur'\textsuperscript{ā}n a kind of false rhetoric? What about his declaration that the Islamic verdicts are not suitable for our era? Is not this a kind of interpretation? And since he admits "there is no clearer and simpler wording and meaning than the verse talking about (the punishment) of theft in clear Arabic language"\textsuperscript{118}. Why, then, did he oppose this clear text and call for putting it aside as it is a historical text? Who informed him that this text is specific to the Prophet's time? How could he oppose what Allah commands proudly deeming it a clear confrontation? And if he admits that:

\textsuperscript{117}Ibid., pp.51-61.
\textsuperscript{118}Ibid., p.50.
"if Allah did not want to cut off the hand of the thief until the completion of the building of an Islamic society and if He wanted to make it (cutting off the hand) a method to create the means of honorable work, He would not neglect it and we would not be in need of the science of jurisdiction to impose on us what He did not reveal to us." 119

How, then, could he lie about Allah and assume that his analysis is "an Islamic synthesis of development; a synthesis based on Islam that could achieve progress and meet the needs of the current era, and not an obstacle against it (progress)" 120. Is he able to see the unseen or did Allah personally inform him that he could leave the clear meaning of the text and oppose it?

b. The writer believes, according to his historical methodology, that the reason for which the Qur’ān imposes the punishment of cutting off the hand is the fact that property at that time was mobile and as a result any aggression against it could involve the murder of the owner. If this is the true reason why Islam imposes such a verdict, then nowadays this reason is more valid. Nowadays, the mobile property is no longer a camel that could run away in the desert and thus be saved but numbers and symbols that move from the far east to the far west once we press of the computer button. Their loss could cause disaster not only for the owner but also disasters, hunger and even wars to entire nations.

And if we want to go further in following the entailments of the writer's logic, we could say that the Zakāt (giving alms) was imposed at the time of the Prophet to help the poor. Nowadays, taxes might replace Zakāt in fulfilling this aim. The

119 Ibid., p.51.
120 Ibid., p.59.
same thing can be said about fasting as it was related to the natural environment of the desert at the time of the Prophet. As ‘Abd al-Hādī ‘Abd al-Rahmān says:

In the Arab region and in the Arabic peninsula in particular it was difficult to depend on vegetarian fasting, as is the case with Christians or Hindus. This is because production depended mainly on cattle rearing in a desert with little water and little vegetation. As a consequence, the nutrition system was influenced by this and depended mainly on goats, their milk and the poor agricultural structure that depended mainly on cereals and dates. Probably, that was the reason behind the illicitness of the rearing of the pig in such a land.\(^{121}\)

Also, the pilgrimage was a response to some social circumstances. The writer asserts "also pilgrimage and its consideration as one of the pillars of Islam was only a response to some social, political, economic and spiritual conditions."\(^{122}\)

Thus, according to this methodology, Islam will turn out to be a mere social phenomenon irrelevant to our era and with only one significance that is the recognition of its historical existence.

These are some of the examples of the modernists' readings and concepts. We hope they would be enough to provide a clear picture of the way these modernists understand the Qur’ān and the objectives they aim to achieve through their analyses.


\(^{122}\) \textit{Ibid.}, p.106.