



Ahlul Bayt International
University


Muslim Women's Studies

Journal homepage: <https://womenstudy.abu.ac.ir/>



International Journal of Muslim Women Studies

Bridging Fiqh and Ethics: Theoretical Frameworks for Reforming Women's Rulings

Sayyed Mustafa Mohaqiq Damad¹ ; Redha Pourmohammadi²  DOI: 10.22034/mws.2024.729883

Professor and Head of the Department of Islamic Law, Faculty of Law, Shahid Beheshti University, Tehran, Iran.

* **Corresponding author:** mdamad@me.com

ARTICLE INFO

Article history:

Received: 20 April 2024

Revised: 30 April 2024

Accepted: 7 May 2024

Keywords:

abuse of rights, chastising women, child marriage, ijtihad, contextual interpretation.

ABSTRACT

This article examines the tensions between Islamic jurisprudence (fiqh) and ethical principles in rulings concerning women, highlighting areas where traditional interpretations appear to conflict with contemporary values such as justice, human dignity, and gender equality. Focusing on specific examples—such as the permissibility of spousal chastisement (ḍarb al-zawja), the right to confine a wife (ḥabs al-zawja), the male-exclusive right to divorce (ṭalāq), and the legitimacy of child marriage (nikāḥ al-ṣaghīra)—the authors argue that certain traditional rulings may be incompatible with modern ethical frameworks. Rather than advocating for the rejection of fiqh or uncritical acceptance of traditional rulings, the article proposes an intra-religious reform through four theoretical frameworks: the doctrine of preventing rights abuse, meta-fiqhi principles, emphasis on the context of textual issuance (siāq al-ṣudūr), and purposive interpretation. Each framework seeks to maintain the integrity of Islamic jurisprudence while enabling ethically sensitive reinterpretations. The aim is to foster a dynamic, humane, and socially responsive fiqh that aligns with the evolving moral demands of contemporary society without compromising the foundational principles of the faith.

E-ISSN: 000-000

© 2024 The Authors. Muslim Women's Studies by Ahlul Bayt International University.

How to cite this article:

S. M. Mohaqiq Damad ; R. Pourmohammadi. (2024). Professor and Head of the Department of Islamic Law, Faculty of Law, Shahid Beheshti University, Tehran, Iran., 1(1), 86-102. <https://doi.org/10.22034/mws.2024.718708>

1. Introduction and statement of the problem

The interplay between Islamic jurisprudence (fiqh) and ethical considerations has long been a subject of intense debate, particularly in rulings that govern the rights and treatment of women. Certain traditional rulings within Islamic law—such as the permissibility of wife-beating in cases of recalcitrance (nushūz), the right of a husband to confine his wife to the home (ḥabs al-zawja), the exclusive right of men to initiate divorce (ṭalāq), and the permissibility of child marriage (nikāḥ al-ṣaghīra)—often appear to clash with contemporary ethical values like justice, human dignity, and gender equality. These apparent conflicts raise profound questions about how Islamic law can remain relevant and morally coherent in a rapidly changing world. Rather than dismissing these rulings as outdated or accepting them uncritically, this article proposes a nuanced, intra-religious approach to reconcile fiqh with ethical principles through reasoned reinterpretation grounded in the tradition itself.

The urgency of this issue is vividly illustrated by real cases, such as a controversial incident in Qom, Iran, in December 2022. A husband confined his wife to their home for nine days, locking the door each morning as he left for work. While the wife's basic needs, such as food and water, were met, she was unable to leave until neighbors assisted her escape. She subsequently filed a complaint against her husband for unlawful confinement, leading to his conviction in a Trial court. However, the appellate court overturned the ruling, citing the husband's legal right under Islamic law to restrict his wife's leaving the household (ḥabs al-zawja), provided no explicit condition in the marriage contract (ʿaqd al-nikāḥ) granted her freedom of leaving the house. This case underscores a broader challenge: certain rulings, while rooted in traditional interpretations of sacred texts, can appear unjust or unethical to modern sensibilities informed by universal principles of human rights and fairness.

This article does not advocate for the wholesale rejection of fiqh or the imposition of secular ethical frameworks. Instead, it seeks to engage with Islamic jurisprudence (fiqh) from within, leveraging its own intellectual resources to address some tensions. The goal is to propose a dynamic, ethically informed fiqh that responds to contemporary social realities while remaining faithful to the foundational principles of Islam. To achieve this, the article introduces four theoretical frameworks rooted in Islamic legal tradition: the doctrine of preventing rights abuse, which prevents the misuse of legal privileges to cause harm; meta-fiqhi principles, which prioritize universal values like justice and dignity as prerequisites for valid legal reasoning; emphasis on the context of textual issuance (siāq al-ṣudūr), which considers the historical and social circumstances of religious texts to inform their application; and purposive reasoning (maqāṣid al-sharīʿa), which focuses on the broader objectives of Islamic law, such as justice and human welfare, over rigid adherence to textual literalism.

Each framework offers a distinct, yet complementary, pathway to reinterpret contentious rulings, ensuring that fiqh remains a living, adaptable system capable of upholding ethical standards without compromising its religious authenticity. By grounding reform in established jurisprudential methods, these approaches avoid the pitfalls of either rigid traditionalism or external secularization. The article contends that such intra-religious reform is not only possible but also necessary to align Islamic laws with the moral imperatives of justice, equality, and human dignity in the modern era. In doing so, it aims to contribute to a fiqh that is both true to its divine origins and responsive to the ethical challenges of contemporary society, fostering a harmonious balance between faith and fairness.

1. The Three Juristic Approaches

The interplay between Islamic jurisprudence (fiqh) and ethical principles, particularly in rulings concerning women, has prompted varied responses from jurists (fuqahā’), shaped by profound differences in epistemology, anthropology, theology, and methodology. These differences influence how jurists address conflicts between traditional rulings—such as those permitting light wife-beating (ḍarb al-zawja), confinement of the wife (ḥabs al-zawja), male-exclusive divorce rights (ṭalāq), and child marriage (nikāḥ al-ṣaghīra)—and modern ethical values like justice, human dignity, and gender equality. The root of these divergent approaches lies in how jurists perceive the nature of religious knowledge, the role of reason (‘aql), the objectives of Islamic law (maqāṣid al-sharī’a), and the concept of justice (‘adl). Epistemologically, conservative jurists view fiqh as a fixed set of divine propositions derived from sacred texts (nuṣūṣ) like the Quran and Sunnah, prioritizing their surface meaning (zāhir) and subordinating ethics to divine law. Reformist jurists, however, see religious knowledge as historically contextualized, subject to reinterpretation through contemporary rationality and human sciences. Separatist jurists treat fiqh and ethics as distinct domains, each with unique purposes, thus avoiding direct reconciliation. Anthropologically and theologically, conservatives emphasize inherent gender differences as divinely ordained, justifying differential treatment, while reformists stress universal human dignity (karāma insāniyya), viewing many gendered rulings as culturally contingent. Separatists regard humans as ethical agents independent of fiqh, allowing moral autonomy outside legal frameworks. Methodologically, conservatives adhere to traditional principles like consensus (ijmā’) and wisdom (‘aql), reformists incorporate broader tools like the objectives of the Sharia (maqāṣid al-sharī’a), and separatists limit fiqh to legal duties, leaving ethics to personal virtue. These factors create a spectrum of responses, which can be categorized into three primary approaches: conservative, reformist, and separatist.

1.1. Conservative Approach: Primacy of Traditional Fiqh

The conservative approach holds that Islamic rulings (aḥkām) are inherently ethical because they emanate from divine wisdom, and any perceived conflict with morality reflects a misunderstanding of ethics or external cultural influences. For instance, rulings permitting light wife-beating (ḍarb al-zawja) in cases of recalcitrance (nushūz), as derived from Quran 4:34, or the husband’s right to restrict his wife’s movement (ḥabs al-zawja), are seen as divinely sanctioned and thus morally sound, even if they appear unjust to modern sensibilities. Conservatives rely on the apparent meaning (zāhir) of texts and traditional methodologies, such as consensus (ijmā’) and wisdom (‘aql), arguing that divine rulings embody ultimate justice (‘adl sharī’ī), which may not align with secular notions of fairness. In the case of child marriage (nikāḥ al-ṣaghīra), some cite Quranic verses (e.g., 65:4) to justify its permissibility, asserting that safeguards like the guardian’s consent (wilāya) prevent harm (ḍarar). Ethical objections are often dismissed as cultural biases, and altering such rulings is viewed as innovation (bid‘a), potentially undermining the immutability of fiqh.

1.2. Reformist Approach: Ethically-Oriented Reinterpretation

In contrast, the reformist approach acknowledges that some traditional rulings, while functional in their historical context, now conflict with ethical principles like gender equality and human dignity. Reformists advocate for reinterpretation within the framework of fiqh, using tools like the objectives of the Sharia (maqāṣid al-sharī’a), the principle of no harm (lā ḍarar wa-lā ḍirār), and

contextual analysis (*siāq al-ṣudūr*). For example, in addressing wife-beating (*ḍarb al-zawja*), reformists argue that Quran 4:34 was meant to regulate pre-existing patriarchal practices, and modern alternatives like counseling better serve the goal of family harmony. They distinguish between foundational rulings (*tā'sīsī*) and those adopted from pre-Islamic customs (*ibḍā'ī*), suggesting the latter can be re-evaluated. Regarding the males' exclusive right to divorce (*ṭalāq*), reformists propose conditions in marriage contracts (*shurūṭ fī 'aqd al-nikāḥ*) to grant women greater agency, reflecting the changing economic roles of women. This approach views *fiqh* as dynamic, capable of adapting to contemporary ethical standards without abandoning its religious roots, thus bridging *fiqh* and ethics to ensure a humane and responsive Islamic law.

1.3. Separatist Approach: Distinguishing *Fiqh* from Ethics

The separatist approach posits that *fiqh* and ethics operate in distinct domains, each with its own purpose and methodology. *Fiqh* governs legal obligations (*taklīf*) based on sacred texts, while ethics focuses on virtues, intentions, and human perfection, informed by reason (*'aql*) and human experience. Thus, a ruling like confining a wife (*ḥabs al-zawja*) may be legally permissible but ethically undesirable, and this discrepancy is not seen as a flaw in *fiqh* but as a reflection of the different functions of ethics and *fiqh*. For instance, while *fiqh* may permit child marriage (*nikāḥ al-ṣaghīra*) with the guardian's consent, ethical considerations based on human dignity might discourage it. Separatists allow believers to adhere to legal rulings while pursuing higher ethical standards in personal conduct. However, this approach risks legitimizing potentially oppressive rulings by framing them as separate from moral concerns, potentially limiting systemic reform within *fiqh*. For example, issues like male-exclusive divorce rights (*ṭalāq*) or wife-beating (*ḍarb al-zawja*) may remain unchallenged within the legal framework, as separatists prioritize ethical autonomy over legal revision.

In conclusion, the diverse juristic responses to conflicts between *fiqh* and ethics in rulings on women reflect deep differences in how jurists perceive religious knowledge, human roles, and legal methodology. Conservatives prioritize the immutability of divine law, reformists seek ethical reinterpretation within *fiqh*, and separatists treat *fiqh* and ethics as distinct domains. Each approach has distinct implications for addressing contentious rulings, with the reformist approach offering the most potential for aligning *fiqh* with contemporary ethical standards while preserving its religious authenticity. These differences underscore the complexity of navigating tradition and modernity in Islamic jurisprudence, particularly in ensuring that rulings concerning women uphold justice and human dignity in today's world.

2. Illustrative Cases of Ethical-legal Conflict in Islamic Rulings

Islamic jurisprudence (*fiqh*) has long served as a cornerstone for regulating social and familial relations within Muslim communities, yet certain rulings, particularly those concerning women, have sparked significant debate due to their apparent conflict with contemporary ethical norms. These tensions arise when traditional interpretations of sacred texts (*nuṣūṣ shar'īyya*) appear to contravene modern principles of justice (*'adl*), human dignity (*karāma insāniyya*), and gender equality. This article examines four such rulings—child marriage (*nikāḥ al-ṣaghīra*), confinement of the wife (*ḥabs al-zawja*), the male-exclusive right to divorce (*ṭalāq*), and spousal chastisement

(*ḍarb al-zawja*)—which, despite their acceptance among mainstream jurists, raise profound ethical concerns. By analyzing the textual basis, historical context, and moral implications of these rulings, this discussion highlights the challenges of aligning *fiqh* with modern ethical frameworks and underscores the need for intra-religious reform to address these conflicts.

2.1. Child Marriage

The permissibility of child marriage (*nikāḥ al-ṣaghīra*) stands as one of the most contentious issues in Islamic jurisprudence (*fiqh*), primarily due to its stark incompatibility with contemporary ethical standards. Traditional *fiqh*, drawing on Qur’anic verses such as Surah al-Ṭalāq (65:4), allows marriage with prepubescent girls under specific conditions, notably the consent of a guardian (*walī*), typically the father or paternal grandfather, and the avoidance of physical harm during sexual relations. Some jurists, citing the unqualified permissibility of spousal intimacy (*istimtā‘ min al-zawja*), have extended legitimacy to non-penetrative interactions with minors, including infants, provided no harm results. This stance reflects a historical context where early marriage was a norm, often driven by economic or social alliances in tribal societies. However, reformist scholars, acknowledging the ethical dilemmas, argue that such interpretations are morally untenable and should be restricted to exclude minors, emphasizing the principle of protecting vulnerable individuals.

From a contemporary ethical perspective, child marriage is widely regarded as a violation of fundamental human rights. The Convention on the Rights of the Child (CRC) sets 18 as the recommended minimum age for marriage, citing the absence of informed consent and the risk of physical and psychological harm, including stunted development, depression, and educational deprivation. Such practices, particularly when coerced, are seen as exploitative, undermining the autonomy and dignity of young girls. In Muslim-majority countries like Tunisia and Iran, reforms have sought to mitigate these concerns by imposing minimum age requirements (e.g., 13 in Iran with judicial approval), often invoking the Islamic principle of “no harm or causing harm” (*lā ḍarar wa lā ḍirār fī al-Islām*). Yet, resistance from conservative communities, grounded in cultural traditions and literalist interpretations of *fiqh*, persists. The ethical tension lies in balancing respect for religious tradition with the imperative to protect children, necessitating dialogue between jurists and human rights advocates to reframe *fiqh* in a manner that prioritizes ethical considerations while remaining rooted in its sacred sources.

2.2. Confinement of the Wife

The ruling permitting a husband to restrict his wife’s freedom of movement, known as confinement of the wife (*ḥabs al-zawja*), represents another significant point of conflict between *fiqh* and modern ethical norms. Rooted in interpretations of Qur’anic verse 4:34 (Surah al-Nisā’) and certain Prophetic traditions (*aḥādīth*), this right is tied to the husband’s role as the family’s overseer (*qawwām*). Historically, this reflected patriarchal social structures where men were responsible for financial provision and family protection, and women’s mobility was often limited to essential activities. Traditional jurists, such as the author of *Jawāhir al-Kalām*, have argued that a husband may prevent his wife from attending her parents’ funeral or visiting relatives, prioritizing his right to intimacy (*istimtā‘*) unless religious obligations are at stake. Even contemporary scholars like Ayatollah Fāḍil Lankarānī, while noting the ethical concerns, uphold the wife’s obligation to comply with such restrictions absent compelling religious reasons.

Ethically, this practice is seen as a violation of fundamental human rights, particularly freedom of movement and personal autonomy, as articulated in the Universal Declaration of Human Rights and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Restricting a woman's ability to leave the home can lead to social isolation, psychological harm (e.g., anxiety or depression), and reduced access to education or professional opportunities, undermining the principles of mutual respect and consent in marriage. Reformist efforts in some Muslim-majority countries have invoked the principle of "no harm" (*lā ḍarar*) to argue that such restrictions are incompatible with the spirit of *sharī'a* in modern contexts, where women actively participate in social and economic spheres. However, cultural resistance in conservative societies often hinders progress. Resolving this conflict requires a re-evaluation of *fiqh* that prioritizes ethical values like autonomy and dignity, fostering a jurisprudence that aligns with contemporary human rights standards.

2.3. Male-Exclusive Right to Divorce

The male-exclusive right to divorce (*ṭalāq*), which allows a husband to unilaterally dissolve a marriage without specific justification, poses a significant ethical challenge due to its inherent gender asymmetry. Based on Qur'anic verse 2:229 (Surah al-Baqara) and related hadiths, traditional *fiqh* grants men this prerogative, while women can seek divorce only in exceptional circumstances, such as extreme hardship (*u'sr wa ḥaraj*) or through mutual agreements like *khul'* or *mubāra'a*. This imbalance, rooted in historical socio-economic structures where men were primary providers, enables potential abuse, such as using divorce as a tool for coercion or to deprive women of financial rights like dowry (*mahr*). The absence of robust oversight in traditional *fiqh* exacerbates these risks, allowing men to wield disproportionate power in marital relations.

From an ethical standpoint, this asymmetry violates principles of gender equality and human dignity, as enshrined in CEDAW and human rights frameworks. The potential for abuse—such as psychological or economic pressure—undermines women's autonomy and security, leading to emotional distress and social marginalization. Reformist measures in countries like Iran and Tunisia, such as contractual stipulations granting women divorce rights or requiring judicial oversight, draw on the principle of "no harm" (*lā ḍarar*) to mitigate inequities. However, entrenched cultural norms and traditionalist interpretations continue to pose challenges. Addressing this conflict requires a jurisprudential re-evaluation that incorporates equitable mechanisms, ensuring that *fiqh* aligns with modern principles of fairness and mutual agency in marriage.

2.4. Spousal Chastisement

The permissibility of spousal chastisement (*ḍarb al-zawja*), allowing a husband to lightly strike his wife in cases of recalcitrance (*nushūz*), is among the most ethically problematic rulings in *fiqh*. Drawing on Qur'anic verse 4:34 (in Surah al-Nisā'), which outlines a sequence of admonition, separation in bed, and light striking, jurists across Ḥanafī, Shāfī'ī, Mālikī, and Ja'farī schools permit this practice under strict conditions, such as avoiding severe harm or striking the face. Historically, this ruling aligned with patriarchal family structures where men held authority as providers, with the intent of maintaining family cohesion. However, the lack of clear criteria for "light striking" and effective oversight renders it susceptible to abuse, transforming a conditional allowance into a potential justification for domestic violence.

Ethically, any form of physical violence against women, even if limited, is condemned as a violation of human dignity and a form of domestic violence under CEDAW and human rights

standards. Such actions can cause psychological harm, including fear and diminished self-esteem, and contradict the principles of mutual respect and consent in marital relationships. Reformist efforts in countries like Turkey and Tunisia, supported by the principle of “no harm” (*lā ḍarar*), advocate for non-violent alternatives, such as counseling or mediation, to address marital disputes. Yet, traditionalist interpretations and cultural norms continue to impede reform. Resolving this conflict requires reinterpreting *fiqh* to prioritize ethical values like justice and dignity, ensuring that rulings reflect the *sharī’a*’s broader objectives in modern contexts.

The four rulings discussed—child marriage (*nikāḥ al-ṣaghīra*), confinement of the wife (*ḥabs al-zawja*), the male-exclusive right to divorce (*ṭalāq*), and spousal chastisement (*ḍarb al-zawja*)—highlight the profound ethical challenges facing traditional *fiqh* in contemporary contexts. While rooted in sacred texts and historical norms, these rulings often clash with modern principles of justice, dignity, and equality, necessitating a re-evaluation through intra-religious frameworks. By engaging with principles like “no harm” (*lā ḍarar*) and the objectives of *sharī’a* (*maqāṣid al-sharī’a*), jurists can adapt *fiqh* to align with ethical imperatives, fostering a jurisprudence that is both faithful to its divine origins and responsive to the moral demands of today’s world.

3. Four Fiqhi Frameworks

Islamic jurisprudence (*fiqh*) has historically served as a dynamic system for regulating the moral, legal, and social conduct of Muslim communities, deriving its authority from sacred texts (*nuṣūṣ shar‘iyya*), including the Qur’an and Prophetic traditions (*sunna*). However, certain rulings, particularly those concerning women, have come under scrutiny for their apparent conflict with contemporary ethical norms, such as justice (*‘adl*), human dignity (*karāma insāniyya*), and gender equality. Rulings like child marriage (*nikāḥ al-ṣaghīra*), confinement of the wife (*ḥabs al-zawja*), the male-exclusive right to divorce (*ṭalāq*), and spousal chastisement (*ḍarb al-zawja*) exemplify these tensions, as their traditional interpretations often clash with modern conceptions of fairness and autonomy. To resolve these conflicts while preserving the integrity of Islamic law (*sharī’a*), jurists can draw on four jurisprudential frameworks rooted in the tradition: the doctrine of preventing rights abuse, meta-*fiqh* principles, emphasis on the context of textual issuance (*siāq al-ṣudūr*), and purposive interpretation. This paper examines each framework, exploring its theoretical foundations, practical applications to women’s rulings, and potential to foster a *fiqh* that is both ethically responsive and religiously authentic.

3.1. The doctrine of Preventing Rights Abuse

Islamic jurisprudence (*fiqh*) has long served as a foundational framework for regulating the moral, legal, and social conduct of Muslim communities, deriving its authority from sacred texts (*nuṣūṣ shar‘iyya*), including the Qur’an and Prophetic traditions (*aḥādīth*). However, certain rulings, particularly those concerning women, have sparked significant debate due to their perceived conflict with contemporary ethical norms, such as justice (*‘adl*), human dignity (*karāma insāniyya*), and gender equality. Rulings like spousal chastisement (*ḍarb al-zawja*), confinement of the wife (*ḥabs al-zawja*), the male-exclusive right to divorce (*ṭalāq*), and child marriage (*nikāḥ al-ṣaghīra*) often appear to clash with modern notions of fairness and autonomy, necessitating interpretive approaches that resolve these tensions while preserving the integrity of Islamic law (*sharī’a*). Among the jurisprudential frameworks proposed to address such conflicts, the doctrine of preventing rights emerges as a pivotal tool, leveraging the principle of preventing harm to ensure that rights align with ethical imperatives. This study explores the theoretical foundations, practical applications, and significance of the doctrine of preventing rights abuse in resolving ethical

conflicts in women's rulings, emphasizing its potential to foster a fiqh that is both ethically responsive and religiously grounded.

The doctrine of preventing rights abuse is rooted in the foundational Prophetic tradition, "There shall be no harm or causing harm in Islam" (*lā ḍarar wa lā ḍirār fī al-Islām*), which serves as a guiding principle to ensure that rights granted by *sharī'a* are exercised responsibly and equitably. This framework posits that any legally sanctioned right, while valid in principle, loses legitimacy if its application results in oppression, coercion, or undue harm to others. Unlike traditionalist approaches that prioritize the literal application (*zāhir*) of texts, the doctrine of preventing rights abuse empowers jurists to restrict or reinterpret rulings that produce morally problematic outcomes, ensuring alignment with justice (*'adl*) and human dignity (*karāma insāniyya*). By focusing on the ethical boundaries of rights, this theory provides a flexible methodology within Islamic legal theory (*uṣūl al-fiqh*) to navigate the complexities of modern moral landscapes, particularly in rulings that disproportionately affect women.

In the context of women's rulings, the doctrine of preventing rights abuse is particularly effective in addressing practices that risk perpetuating harm or injustice. For instance, the permission for spousal chastisement (*ḍarb al-zawja*), derived from Qur'anic verse 4:34 (in *Surah al-Nisā'*), allows a husband to lightly strike his wife in cases of recalcitrance (*nushūz*). While textually grounded, this ruling raises ethical concerns, as even limited physical discipline can degrade dignity and is condemned as domestic violence under international frameworks like the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). By applying the doctrine of preventing rights abuse, jurists can argue that misuse of this right to intimidate or harm violates the principle of "no harm" (*lā ḍarar*), necessitating restrictions or alternative approaches, such as non-violent conflict resolution methods like counseling. This reinterpretation ensures that the ruling's purpose—maintaining family harmony—is preserved ethically, aligning fiqh with contemporary moral standards.

Similarly, the ruling permitting confinement of the wife (*ḥabs al-zawja*), which allows a husband to restrict his wife's movement, reflects a historical context where men were responsible for family protection. In modern societies, however, such restrictions can lead to social isolation, psychological harm, or curtailed opportunities, contravening human dignity (*karāma insāniyya*). Drawing on the doctrine of preventing rights abuse, jurists can deem such applications invalid if they cause harm, advocating for interpretations that prioritize mutual respect and autonomy. For example, rather than restricting movement, fiqh can emphasize protective measures that align with ethical norms, such as legal safeguards or community support systems. This approach ensures that *sharī'a*'s intent—promoting family welfare—is upheld without perpetuating injustice.

The male-exclusive right to divorce (*ṭalāq*), which allows a husband to unilaterally dissolve a marriage, poses another ethical challenge due to its potential for abuse. Traditional fiqh permits this right without requiring specific justification, but its misuse to coerce a wife into relinquishing financial entitlements, such as dowry (*mahr*), undermines fairness. By invoking the doctrine of preventing rights abuse, jurists can impose conditions, such as judicial oversight or mutual consent, to prevent exploitative applications of the right to divorce, ensuring that *ṭalāq* aligns with *'adl*. This framework has informed legal reforms in countries like Iran, where marriage contracts include clauses to curb the misuse of *ṭalāq*, and Tunisia, where laws against coercive divorce practices reflect the principle of *lā ḍarar*. By addressing such abuses, the doctrine of preventing rights abuse fosters a fiqh that balances textual fidelity with ethical sensitivity.

The framework’s strength lies in its ability to operate within traditional fiqh, leveraging an established principle to address modern critiques without challenging textual authority. Its flexibility allows jurists to adapt rulings to diverse socio-cultural contexts, ensuring their ethical coherence. However, its application faces challenges from traditionalist scholars who prioritize literal interpretations over harm prevention, viewing such restrictions as deviations from sharī‘a. Reformists counter the traditionalist position by arguing *lā ḍarar* is a core principle of Islamic law that ensures the legitimacy of the law as a regulatory mechanism. To overcome resistance, jurists must engage in rigorous scholarship, grounding their interpretations in *uṣūl al-fiqh* while drawing on contemporary ethical insights. Interdisciplinary dialogue with human rights advocates and policymakers is essential to institutionalize these reforms, fostering societal acceptance.

The potential of the doctrine of preventing rights abuse is evident in reformist efforts across Muslim-majority countries, where laws protecting women’s rights draw on harm prevention as a guiding principle. By establishing ethical boundaries for rights, this framework enables fiqh to address modern critiques while enriching its moral coherence. However, its success depends on educational reforms in Islamic seminaries, emphasizing ethical reasoning alongside traditional fiqh, and broader societal engagement to build consensus for reform.

3.2. The Meta-Fiqhi Principles Theory

Islamic jurisprudence (fiqh) has historically provided a comprehensive framework for regulating the moral, legal, and social conduct of Muslim communities, deriving its authority from sacred texts (*nuṣūṣ shar‘iyya*), such as the Qur’an and Prophetic traditions (*sunna*). However, certain rulings, particularly those concerning women, have generated significant debate due to their apparent conflict with contemporary ethical norms, including justice (‘*adl*), human dignity (*karāma insāniyya*), and gender equality. Rulings such as spousal chastisement (*ḍarb al-zawja*), confinement of the wife (*ḥabs al-zawja*), the male-exclusive right to divorce (*ṭalāq*), and child marriage (*nikāḥ al-ṣaghīra*) often clash with modern notions of fairness and autonomy, necessitating interpretive approaches that remove these tensions while preserving the integrity of Islamic law (*sharī‘a*). Among the jurisprudential frameworks proposed to address such conflicts, the theory of “meta-fiqhi principles” stands out as a foundational tool that establishes universal ethical benchmarks to validate fiqh rulings. This paper explores the theoretical foundations, practical applications, and significance of meta-fiqhi principles in resolving ethical conflicts in women’s rulings, emphasizing its potential to foster a fiqh that is both ethically responsive and religiously authentic.

The theory of “meta-fiqhi principles” posits that certain universal values—justice (‘*adl*), human dignity (*karāma insāniyya*), and morality—must serve as axiomatic benchmarks for all legal reasoning within Islamic jurisprudence (fiqh). Unlike jurisprudential rules (*qawā‘id fiqhiyya*), which operate within fiqh and may conflict, or methodological principles (*qawā‘id uṣūliyya*), which guide textual interpretation, meta-fiqhi principles function as external ethical standards that validate the legitimacy of derived rulings. If a ruling contradicts these principles, it is deemed invalid, prompting a re-examination of the interpretive process to ensure alignment with sharī‘a’s ethical foundations. This framework challenges the traditionalist view that ethics is wholly subsumed under sharī‘a, proposing instead that justice and dignity are independent criteria inherent to divine law, as evidenced by Qur’anic verses like “Indeed, Allah commands justice and good conduct” (Qur’an 16:90). By establishing an ethical framework for fiqh, meta-fiqhi principles

enable jurists to critically assess sacred texts (nuṣūṣ) and select interpretations that resonate with contemporary moral norms.

In the context of women's rulings, meta-fiqhi principles are particularly effective in addressing practices that undermine ethical standards. For instance, the permission for spousal chastisement (ḍarb al-zawja), derived from Qur'anic verse 4:34 (in Surah al-Nisā'), allows a husband to lightly strike his wife in cases of recalcitrance (nushūz). While textually grounded, this ruling raises ethical concerns, as even limited physical discipline can violate human dignity (karāma insāniyya) and is condemned as domestic violence under international frameworks like the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). By applying meta-fiqhi principles, jurists can evaluate this ruling against the principle of 'adl, recognizing that any practice causing harm or degradation is incompatible with sharī'a's ethical objectives. This insight supports reformist calls for non-violent alternatives, such as counseling or mediation, ensuring that fiqh upholds dignity while addressing marital disputes.

Similarly, the ruling permitting confinement of the wife (ḥabs al-zawja), which allows a husband to restrict his wife's movement, reflects a historical context where men were responsible for family protection. In modern societies, however, such restrictions can lead to social isolation, psychological harm, or curtailed opportunities, contravening the principle of karāma insāniyya. Using meta-fiqhi principles, jurists can deem such applications invalid if they violate justice or dignity, advocating for interpretations that prioritize mutual respect and autonomy. For example, rather than restricting movement, fiqh can emphasize protective measures that align with contemporary ethical norms, such as legal safeguards or community support systems. This approach ensures that sharī'a's intent—promoting family welfare—is preserved in a manner consistent with modern moral standards.

The framework is also applicable to child marriage (nikāḥ al-ṣaghīra), which is permitted under traditional fiqh based on Qur'anic verse 65:4 (in Surah al-Ṭalāq). Historically, early marriages served social or economic purposes, but today, they risk depriving minors of education, autonomy, and psychological well-being, as highlighted by the Convention on the Rights of the Child. By invoking meta-fiqhi principles, jurists can argue that such practices contravene 'adl and karāma insāniyya, necessitating reforms like minimum age requirements to protect vulnerable individuals. This perspective aligns fiqh with ethical imperatives while respecting its textual roots, demonstrating the framework's ability to bridge tradition and modernity.

The strength of meta-fiqhi principles lies in its capacity to establish universal ethical benchmarks that resonate with global human rights principles without requiring a departure from Islamic tradition. By grounding fiqh in values inherent to sharī'a, it counters accusations of secularizing Islamic law, offering a reformist approach that is both principled and authentic. However, its application faces challenges from traditionalist scholars who prioritize textual literalism over external ethical criteria, viewing such benchmarks as potential intrusions. Reformists, including figures like Ayatollah Sistani, counter such traditionalist arguemnets by pointing out that justice ('adl) is a divine principle integral to sharī'a, ensuring its legitimacy as a meta-fiqhi standard. To overcome resistance, jurists must engage in rigorous scholarship, grounding their interpretations in uṣūl al-fiqh while drawing on contemporary ethical insights. Interdisciplinary training, combining Islamic legal theory with moral philosophy, is essential to equip jurists for this task.

The framework's potential is evident in reformist efforts in Muslim-majority countries like Tunisia, where laws protecting women's rights draw on justice as a foundational principle. By establishing

an ethical framework, meta-fiqhi principles enable fiqh to address modern critiques while enriching its moral coherence. However, its success depends on societal acceptance and dialogue among jurists, policymakers, and human rights advocates to build consensus for reform. Educational reforms in Islamic seminaries and emphasizing ethical reasoning alongside traditional fiqh can further enhance its impact, fostering a scholarship that is both innovative and rooted in tradition.

In conclusion, the theory of “meta-fiqhi principles” is a pivotal framework for resolving conflicts between Islamic jurisprudence (fiqh) and ethical norms in women’s rulings. By establishing justice (‘adl) and human dignity (karāma insāniyya) as axiomatic benchmarks, it enables jurists to reinterpret rulings like *ḍarb al-zawja*, *ḥabs al-zawja*, and *nikāḥ al-ṣaghīra* in ways that uphold contemporary moral standards. Its emphasis on universal values, grounded in *sharī‘a*, makes it a cornerstone of reformist scholarship, but its implementation requires methodological rigor, interdisciplinary engagement, and societal support to overcome traditionalist resistance. By fostering a fiqh that is ethically informed and religiously authentic, meta-fiqhi principles offer a pathway for Islamic law to remain a vibrant, humane system in the face of modern ethical challenges.

3.3. Contextual Analysis of the Qur’an and Hadith

Islamic jurisprudence (fiqh) has long provided a robust framework for guiding the moral, legal, and social conduct of Muslim communities, drawing its authority from sacred texts (*nuṣūṣ shar‘iyya*), including the Qur’an and Prophetic traditions (*aḥādīth*). However, certain rulings, particularly those concerning women, have sparked significant debate due to their perceived conflict with contemporary ethical norms, such as justice (‘adl), human dignity (*karāma insāniyya*), and gender equality. Rulings like spousal chastisement (*ḍarb al-zawja*), confinement of the wife (*ḥabs al-zawja*), the male-exclusive right to divorce (*ṭalāq*), and child marriage (*nikāḥ al-ṣaghīra*) often appear at odds with modern notions of fairness and autonomy, necessitating interpretive approaches that resolve these tensions while preserving the integrity of Islamic law (*sharī‘a*). Among the jurisprudential frameworks proposed to address such conflicts, the emphasis on the context of textual issuance (*siāq al-ṣudūr*) stands out as a hermeneutic tool that enables jurists to reinterpret rulings by situating them within their historical, social, and cultural milieu. This study explores the theoretical foundations, practical applications, and significance of *siāq al-ṣudūr* in resolving ethical conflicts in women’s rulings, highlighting its potential to foster a fiqh that is both ethically responsive and religiously authentic.

The framework of *siāq al-ṣudūr* underscores the importance of understanding the socio-historical, economic, and linguistic context in which Qur’anic verses and Prophetic traditions (*aḥādīth*) appeared. Unlike traditionalist approaches, which treat sacred texts (*nuṣūṣ*) as timeless and immutable, this framework recognizes that many rulings were tailored to specific circumstances, rendering their literal application contingent on similar conditions. By analyzing the context of issuance, jurists can distinguish between a ruling’s enduring purpose and its historically contingent form, enabling reinterpretations that align with modern ethical norms while remaining faithful to the texts’ underlying objectives. This approach, rooted in classical Islamic legal theory (*uṣūl al-fiqh*), acknowledges that divine revelation often responded to the immediate realities of seventh-century Arabia, providing guidance shaped by the social, cultural, and economic dynamics of that era. By uncovering these contextual factors, *siāq al-ṣudūr* allows jurists to adapt fiqh to

contemporary settings, ensuring its relevance and ethical coherence. Fāḍil Lankarānī writes that "If we accept that the sacred Lawgiver has conveyed His rulings and teachings to the people within the framework of expressions and phrases based on rational conventions, and has stated them according to those conventions, then many jurisprudential details will take on a new form at the level of rulings." Also a group of researchers have similarly stated that "The methodology of the Lawgiver is to convey the ruling through the presentation of concrete examples. Therefore, it is not correct to rigidly adhere to the explicitly mentioned cases and then object to the inclusion of newly emerged instances—or even the original cases themselves—if their circumstances and conditions have changed."

In the context of women's rulings, *siāq al-ṣudūr* is particularly effective in addressing practices that reflect outdated social structures. For example, Qur'anic verse 4:34 (in Surah al-Nisā'), which permits light striking (*ḍarb khaff*) in cases of the wife's recalcitrance (*nushūz*), was revealed in a patriarchal, tribal society where men were primary providers and protectors, and family cohesion relied on hierarchical structures. The ruling aimed to maintain marital stability in a context lacking modern judicial or psychological mechanisms for resolving disputes. In short, a better understanding of context and circumstances can lead to more accurate judgments regarding women's rulings. On this point, Ayatollah Makarem Shirazi states, "Temporal and spatial conditions [the context in which a text was issued] may lead a jurist to look at religious texts from a new perspective... and reach new conclusions, both in terms of subjects and [in terms of] legal rulings."

In contemporary societies, where women contribute equally to economic and social spheres, literal application of this ruling risks constituting domestic violence, violating human dignity (*karāma insāniyya*) and conflicting with international standards like the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). By applying *siāq al-ṣudūr*, jurists can focus on the verse's purpose—preserving family harmony—and advocate for non-violent alternatives, such as counseling or mediation, that achieve the same goal ethically. This reinterpretation respects the text's authority while addressing modern concerns about gender-based violence.

Similarly, the ruling permitting confinement of the wife (*ḥabs al-zawja*), which allows a husband to restrict his wife's movement, was intended to protect family honor and safety in a historical context with limited security infrastructure. In early Islamic society, women's mobility was often constrained by tribal norms and safety concerns, and the ruling reflected these realities. Today, however, such restrictions can lead to social isolation, psychological harm, or curtailed opportunities, contravening the ethical imperative of human dignity (*karāma insāniyya*). Using *siāq al-ṣudūr*, jurists can reinterpret this ruling to prioritize its underlying objective—family safety—while replacing outdated restrictions with modern safeguards, such as legal protections or community support systems, that respect women's autonomy. This contextual approach ensures that *fiqh* remains aligned with *sharī'a*'s intent while addressing contemporary ethical standards.

The framework is also applicable to rulings like child marriage (*nikāḥ al-ṣaghīra*), which was socially normative in early Islamic societies, where early unions often served economic or tribal alliances. Qur'anic verse 65:4 (in Surah al-Ṭalāq) implicitly permits such marriages, reflecting a context where childhood was defined differently, and social structures supported early family formation. From a modern ethical perspective, however, child marriage risks depriving minors of education, autonomy, and psychological well-being, as highlighted by the Convention on the Rights of the Child. By analyzing the *siāq al-ṣudūr*, jurists can recognize that the ruling's purpose—

strengthening social bonds—is no longer served by early marriages in contexts where they cause harm. This insight supports reformist calls for minimum age requirements, aligning fiqh with ethical norms while respecting its textual roots.

The strength of *siāq al-ṣudūr* lies in its ability to maintain fidelity to sacred texts (*nuṣūṣ*) while fostering interpretive flexibility, making it a cornerstone of reformist scholarship. However, its application requires deep expertise in historical, linguistic, and socio-cultural analysis to accurately reconstruct the context of textual issuance. This complexity poses a challenge for jurists trained in literalist methodologies, necessitating educational reforms in Islamic seminaries to emphasize interdisciplinary approaches. Moreover, traditionalist scholars may resist contextual reinterpretations, viewing them as undermining textual authority. Reformists’s counterargument is that *siāq al-ṣudūr* enhances understanding of divine intent by uncovering the rationale behind rulings, ensuring their relevance in modern contexts. To maximize its impact, jurists must employ rigorous methodologies, grounding reinterpretations in *uṣūl al-fiqh* to avoid arbitrary conclusions.

In conclusion, the emphasis on the context of textual issuance (*siāq al-ṣudūr*) is a pivotal framework for resolving conflicts between Islamic jurisprudence (*fiqh*) and ethical norms in women’s rulings. By situating rulings like *ḍarb al-zawja*, *ḥabs al-zawja*, and *nikāḥ al-ṣaghīra* within their historical milieu, jurists will be able to distinguish purpose from form, advocating for interpretations that uphold justice (‘*adl*) and human dignity (*karāma insāniyya*). Its hermeneutic rigor and fidelity to *sharī’a* make it a vital tool for reformist efforts, but its success depends on scholarly expertise, interdisciplinary engagement, and societal acceptance to overcome traditionalist resistance. By fostering a *fiqh* that is contextually informed and ethically sensitive, *siāq al-ṣudūr* offers a pathway for Islamic law to remain a vibrant, humane system in the face of contemporary moral challenges.

3.4. The Purposive Interpretation

Islamic jurisprudence (*fiqh*) has long served as a dynamic framework for regulating the moral, legal, and social conduct of Muslim communities, deriving its authority from sacred texts (*nuṣūṣ shar‘iyya*), such as the Qur’an and Prophetic traditions (*sunna*). However, certain rulings, particularly those concerning women, have sparked debate due to their apparent conflict with contemporary ethical norms, including justice (‘*adl*), human dignity (*karāma insāniyya*), and gender equality. Rulings such as spousal chastisement (*ḍarb al-zawja*), confinement of the wife (*ḥabs al-zawja*), the male-exclusive right to divorce (*ṭalāq*), and child marriage (*nikāḥ al-ṣaghīra*) often clash with modern notions of fairness and autonomy, necessitating interpretive approaches that reconcile these tensions while preserving the integrity of Islamic law (*sharī’a*). Among the jurisprudential frameworks proposed to address such conflicts, the theory of purposive interpretation, rooted in the objectives of *sharī’a* (*maqāṣid al-sharī’a*), stands out as a transformative tool. This paper explores the theoretical foundations, practical applications, and significance of purposive interpretation in resolving ethical conflicts in women’s rulings, emphasizing its potential to foster a *fiqh* that is both ethically responsive and religiously authentic.

The theory of purposive interpretation centers on the overarching objectives of Islamic law (*maqāṣid al-sharī’a*), which include justice (‘*adl*), human welfare, preservation of family, protection of life, and moral development. Unlike traditionalist approaches, which prioritize the literal meaning (*zāhir*) of texts, this framework evaluates rulings based on their alignment with these objectives, allowing jurists to adapt or replace outdated mechanisms with alternatives that

better serve sharī'a's goals in contemporary contexts. By focusing on the spirit rather than the letter of the law, purposive interpretation enables fiqh to respond to ethical critiques without compromising its divine foundations. This approach, articulated by classical scholars like al-Ghazālī and al-Shāṭibī and revitalized by modern reformists, recognizes that sharī'a aims to promote human flourishing and justice, providing a flexible methodology to navigate the complexities of modern moral landscapes.

In the context of women's rulings, purposive interpretation theory is particularly effective in addressing practices that conflict with contemporary ethical norms. For instance, the permission for spousal chastisement (ḍarb al-zawja), derived from Qur'anic verse 4:34 (in Surah al-Nisā'), historically aimed to maintain family harmony in a patriarchal society where men were primary providers. The verse outlines a sequence of admonition, separation, and light striking (ḍarb khaff) in cases of recalcitrance (nushūz), reflecting a context lacking modern dispute resolution mechanisms. From an ethical perspective, however, even limited physical discipline violates human dignity (karāma insāniyya) and is condemned as domestic violence under international frameworks like the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). By applying purposive interpretation theory, jurists can prioritize the objectives (maqāṣid) of family preservation and mutual respect, advocating for non-violent alternatives such as counseling or mediation, which achieve the same goal without ethical compromise. This reinterpretation aligns with sharī'a's objective of fostering harmonious relationships while addressing modern concerns about gender-based violence.

Similarly, the ruling permitting confinement of the wife (ḥabs al-zawja), which allows a husband to restrict his wife's movement, was intended to ensure family safety and honor in a historical context with limited security infrastructure. Today, such restrictions often result in social isolation or psychological harm, contravening the goals (maqāṣid) of human welfare and dignity. Using purposive interpretation theory, jurists can reinterpret this ruling to emphasize protective measures that respect women's autonomy, such as legal safeguards or community support systems, thereby fulfilling the objective of safety in a manner consistent with ethical norms. The male-exclusive right to divorce (ṭalāq), rooted in men's historical financial responsibilities, poses another ethical challenge due to its potential for abuse, such as coercing women into relinquishing financial rights like dowry (mahr). By focusing on the equitable dispute resolution as a goal of sharī'a, jurists can advocate for reforms, such as contractual stipulations granting women divorce rights or judicial oversight, ensuring fairness and mutual agency in marital dissolution.

The framework's strength lies in its flexibility, allowing jurists to adapt fiqh to diverse socio-cultural contexts while maintaining fidelity to sharī'a's core objectives. For example, child marriage (nikāḥ al-ṣaghīra), historically a means of social alliance, often conflicts with the goal of protecting human welfare when it deprives minors of education or autonomy, as highlighted by the Convention on the Rights of the Child. Reformist jurists, using purposive interpretation, have called for minimum age requirements to safeguard minors, aligning fiqh with ethical standards while respecting its religious roots. This approach has informed legal reforms in countries like Morocco and Tunisia, where family codes draw on the religion's goal of promoting gender equality and protect vulnerable populations.^[^3] However, the framework's application requires a nuanced understanding of the purposes (maqāṣid) and their relevance to modern issues, as overly liberal interpretations risk straying from textual authority, while overly conservative ones may fail to address ethical concerns.

The implementation of purposive interpretation theory faces challenges, particularly from traditionalist scholars who prioritize textual literalism over purposive reasoning. Such resistance, often rooted in cultural norms or concerns about preserving fiqh’s authenticity, underscores the need for methodological rigor in applying this framework. Jurists must ground their interpretations in established principles of Islamic legal theory (uṣūl al-fiqh), ensuring that maqāṣid-based reasoning complements rather than overrides textual sources (Qur’an, sunna, ijmā’, ‘aql). Additionally, interdisciplinary engagement with contemporary ethics, sociology, and human rights scholarship is essential to contextualize maqāṣid in modern settings. Educational reforms in Islamic seminaries, emphasizing maqāṣid alongside traditional fiqh, can equip jurists to navigate these complexities, fostering a scholarship that is both innovative and principled.

In conclusion, the theory of purposive interpretation is a pivotal framework for resolving conflicts between Islamic jurisprudence (fiqh) and ethical norms in women’s rulings. By prioritizing the objectives of sharī’a (maqāṣid al-sharī’a), it enables jurists to reinterpret rulings like ḍarb al-zawja, ḥabs al-zawja, ṭalāq, and nikāḥ al-ṣaghīra in ways that uphold justice (‘adl) and human dignity (karāma insāniyya). Its flexibility and rootedness in classical scholarship make it a cornerstone of reformist efforts, but its success hinges on methodological rigor, interdisciplinary dialogue, and societal support to overcome traditionalist resistance. By fostering a fiqh that is goal-oriented and ethically informed, purposive interpretation theory offers a pathway for Islamic law to remain a vibrant, humane system in the face of contemporary moral challenges.

Conclusion

This article endeavored to address the complex interplay between Islamic jurisprudence (fiqh) and ethical principles in rulings concerning women, proposing four theoretical frameworks to consider apparent conflicts: the doctrine of preventing rights abuse, meta-fiqhi principles, emphasis on the context of textual issuance (siāq al-ṣudūr), and purposive reasoning (maqāṣid al-sharī’a). Each framework offers a distinct pathway for reinterpreting rulings such as wife-beating (ḍarb al-zawja), confinement of the wife (ḥabs al-zawja), male-exclusive right to divorce (ṭalāq), and child marriage (nikāḥ al-ṣaghīra), ensuring alignment with justice, human dignity, and gender equality while preserving the integrity of fiqh. The theory of prohibiting abuse prevents legal privileges from becoming tools of oppression, meta-fiqhi principles prioritize universal values like justice (‘adl) as prerequisites for valid rulings, contextual analysis situates texts within their historical settings, and purposive reasoning focuses on the broader objectives of the Sharia to adapt rulings to contemporary realities.

These frameworks underscore the necessity of a dynamic, intra-religious reform that remains faithful to the principles of traditional jurisprudence (uṣūl al-fiqh) while responding to modern ethical imperatives. However, their application demands methodological rigor and deep engagement with Islamic intellectual heritage, including a thorough understanding of textual contexts, the objectives of the sharia (maqāṣid al-sharī’a), and rational principles (‘aql). Selective or superficial use risks undermining the coherence of fiqh or alienating its foundational sources, such as the Quran and sunnah. The article advocates for a balanced approach, where reform neither rejects tradition nor succumbs to external secular pressures but seeks a reasoned, ethically informed re-reading of fiqh.

Ultimately, these frameworks pave the way for a vibrant, humane fiqh that harmonizes with contemporary values without compromising its divine roots. They invite jurists (fuqahā’) to

embrace creative and courageous *ijtihad*, fostering a legal tradition that upholds justice and dignity. While the proposed frameworks are not exhaustive, they represent a significant step toward a *fiqh* that is both timeless and responsive to the ethical demands of the modern world.

References

- Abū al-Futūḥ al-Rāzī, Ḥusayn b. ‘Alī. *Rawḍ Al-Jinān Wa-Rūḥ al-Janān Fī Tafsīr al-Qur’ān*. Bunyād-i Pizhūhishhā-yi Islāmī-yi Āstān-i Quds-i Raḍawī, 1987.
- Anṣārī, Murtaḍā. *Kitāb Al-Makāsib al-Muḥarrama Wa-l-Bay‘ Wa-l-Khiyārāt*. Kungira-yi Jahānī-yi Buzurgdāsh-t-i Shaykh A‘zam Anṣārī, 1994.
- Fāḍil Lankarānī, Muḥammad. *Jāmi‘ Al-Masā’il*. Amīr Qalam, 2004.
- Fāḍil Lankarānī, Muḥammad Jawād. *Rasā’il Fī Al-Fiqh Wa-l-Uṣūl*. Markaz-i Fiqh-i A’imma Aṭhār ‘alayhim al-salām, 2007.
- Ḥakīm, Sayyid Muḥsin. *Mustamsak Al-‘urwa al-Wuthqā*. Dār al-Tafsīr, 1995.
- Ḥurr ‘Āmilī, Muḥammad b. Ḥasan. *Tafṣīl Wasā’il Al-Shī‘a Ilā Taḥṣīl Masā’il al-Sharī‘a*. Mu’assasat Āl al-Bayt li-Iḥyā’ al-Turāth, 1988.
- Ibn Abī Jumhūr, Muḥammad b. Zayn al-Dīn. *‘Awālī Al-La’ālī al-‘azīziyya Fī al-Aḥādīth al-Dīniyya*. Dār Sayyid al-Shuhadā’ li-l-Nashr, 1984.
- Ibn Bābawayh, Muḥammad b. ‘Alī. *Man Lā Yaḥḍuruḥu Al-Faqīh*. 2nd ed. Qum: Daftar-i Intishārāt-i Islāmī, 1992.
- Ibn Māja, Muḥammad b. Yazīd. *Sunan Ibn Māja*. Dār Iḥyā’ al-Kutub al-‘Arabiyya, 1997.
- Ishtihārdī, ‘Alī-Panāh. *Madārik Al-‘urwa*. Dār al-Aswa li-l-Ṭibā‘a wa-l-Nashr, 1996.
- Jaṣṣaṣ, Aḥmad. *Aḥkām Al-Qur’ān*. Dār Iḥyā’ al-Turāth al-‘Arabī, 1984.
- Jazīrī, ‘Abd al-Raḥmān. *Al-Fiqh ‘alā al-Madhāhib al-Arba‘a*. Dār al-Kutub al-‘Ilmiyya, 2003.
- Khumaynī, Sayyid Rūḥ Allāh. *Al-Makāsib al-Muḥarrama*. Mu’assasa-yi Tanzīm wa-Nashr-i Āthār-i Imām Khumaynī, 2013.
- . *Kitāb Al-Bay‘*. Mu’assasa-yi Tanzīm wa-Nashr-i Āthār-i Imām Khumaynī, 2000.
- . *Tahrīr Al-Wasīla*. Mu’assasa-yi Tanzīm wa-Nashr-i Āthār-i Imām Khumaynī, 1988.
- Khu’ī, Sayyid Abū al-Qāsim. *Mawsū‘at Al-Imām al-Khu’ī*. Mu’assasat Iḥyā’ Āthār al-Imām al-Khu’ī, 1997.
- Khu’ī, Sayyid Abū al-Qāsim Mūsawī. *Minhāj Al-Ṣāliḥīn*. Madīnat al-‘Ilm, 1989.
- Kulaynī, Muḥammad b. Ya‘qūb. *Al-Rawḍa Min al-Kāfi*. ‘Ilmiyya Islāmiyya, 1985.
- Makāram Shīrāzī, Nāṣir. *Dā’irat Al-Ma‘ārif al-Fiqh al-Muqāran*. Madrasat al-Imām ‘Alī b. Abī Ṭālib ‘alayhi al-salām, 2006.
- Makārim Shīrāzī, Nāṣir. *Anwār Al-Faqāha*. Madrasat al-Imām ‘Alī b. Abī Ṭālib ‘alayhi al-salām, 2007.
- Mawsū‘at Radd Al-Shubahāt al-Fiqhiyya al-Mu‘āṣira (al-Ḥudūd). Markaz Fiqhī A’imma Aṭhār, n.d.
- Mughniyya, Muḥammad Jawād. *Fiqh Al-Imām al-Ṣādiq ‘alayhi al-Salām*. Mu’assasat Anṣāriyān, 2000.
- Muḥaqqiq Dāmād, Sayyid Muṣṭafā. *Ḥikmat Wa-Diyānat*. Markaz-i Nashr-i ‘Ulūm-i Islāmī, 2024.
- . *Maktab-i Ijtihādī-Yi Ākhūnd Khurāsānī*. Markaz-i Nashr-i ‘Ulūm-i Islāmī, 2018.

———. Nazariyyat Mamnū’iyyat Su’ Istifāda Min Al-Ḥaqq. Markaz-i Nashr-i ‘Ulūm-i Islāmī, 2024.

———. Qawā’id-i Fiqh. Markaz-i Nashr-i ‘Ulūm-i Islāmī, 1985.

Muḥaqqiq Dāmād, Sayyid Muṣṭafā, Sayyid Muṣṭafā Ḥusaynī-nasab, and Riḍā Pürmuḥammadī. Uṣūl-i Fiqh Tahliḷī; Daftar-i Awwal: Tafsīr Fiqhī. Būstān-i Kitāb, 2022.

Muḥaqqiq Dāmād, Sayyid Muṣṭafā, and Riḍā Pürmuḥammadī. Makātib Tafsīriyya Fī Al-Fiqh al-Imāmiyya. Markaz-i Nashr-i ‘Ulūm-i Islāmī, 2024.

Muḥaqqiq Hillī, Ja’far b. Ḥasan. Sharā’i’ Al-Islām Fī Masā’il al-Ḥalāl Wa-l-Ḥarām. Ismā’iliyān, 1987.

Mūsawī Sabzawārī, ‘Abd al-A’lā. Muhadhdhab Al-Aḥkām Fī Bayān al-Ḥalāl Wa-l-Ḥarām. Intishārāt al-Sayyid ‘Abd al-A’lā al-Sabzawārī, 1992.

Najafī, Muḥammad Ḥasan. Jawāhir Al-Kalām Fī Sharḥ Sharā’i’ al-Islām. Dār Iḥyā’ al-Turāth al-‘Arabī, 1983.

Pürmuḥammadī, Riḍā. “Ḍamān ‘āqila Wa-Niḏām Qabīla’ī,” 2018, 55–73.

Rūḥānī, Muḥammad Ṣādiq. Fiqh Al-Ṣādiq ‘alayhi al-Salām. Dār al-Kitāb Madrassa-yi Imām Ṣādiq, 1991.

Shahīd Awwal, Muḥammad b. Makkī al-‘Āmilī. Al-Qawā’id Wa-l-Fawā’id Fī al-Fiqh Wa-l-Uṣūl Wa-l-‘Arabiyya. Kitābfurūshī-yi Mufīd, n.d.

Shahīd Thānī, Zayn al-Dīn b. ‘Alī. Masālik Al-Afhām Ilā Tanqīḥ Sharā’i’ al-Islām. Mu’assasat al-Ma’ārif al-Islāmiyya, 1992.

Sīstānī, Sayyid ‘Alī. Qā’idat Lā Ḍarar Wa-Lā Ḍirār. Maktab Āyat Allāh al-‘Uẓmā al-Sayyid al-Sīstānī, 1993.

Subḥānī, Ja’far. Uṣūl Al-Fiqh al-Muqāran Fī Mā Lā Naṣṣ Fīhi. Mu’assasat Imām Ṣādiq ‘alayhi al-salām, 2004.

Ṭabarsī, Faḍl b. Ḥasan. Majma’ Al-Bayān Fī Tafsīr al-Qur’ān. Mu’assasat al-A’lamī, 1994.

Ṭabaṭabā’ī, Muḥammad Ḥusayn. Al-Mīzān Fī Tafsīr al-Qur’ān. Mu’assasat al-A’lamī li-l-Maṭbū’āt, 1972.

Tawḥīdī, Muḥammad ‘Alī. Miṣbāḥ Al-Faqāha (Taqrīrāt Dars Khārij Āyat Allāh Khu’ī). Anṣāriyān, 1996.

Ṭūsī, Muḥammad b. Ḥasan. Al-Mabsūṭ Fī Fiqh al-Imāmiyya. al-Maktaba al-Murtaḍawiyya, 1967.

Yazdī, Sayyid Muḥammad Kāzim. ‘Urwat Al-Wuthqā. Jāmi’at Mudarrisīn Ḥawza ‘Ilmiyya Qum, 2000.

Zaḥīlī, Wahba. Al-Fiqh al-Islāmī Wa-Adillatuhu. Dār al-Fikr, 1988.