

Tradition and Modernity in the Ulama's Discourse on Usurpation of Power

by

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## ABSTRACT

Undertaking an intellectual history and employing a diachronic approach, this study seeks to unravel both the continuity and change in the ulama's discourse on the usurpation of power from the 2<sup>nd</sup>-9<sup>th</sup> Islamic Era or between the 8<sup>th</sup>-15<sup>th</sup> Common Era, the early twentieth century, and the period of the Arab Spring. I define *usurpation* in this study as an unlawful encroachment against a ruler which consists of one of the three following actions: military coup (*al-taghallub*), domination (*al-ḥijr*), and seizure of local territory (*al- 'istīlā' 'alā al- 'imāra*). In doing so, I pay particular attention to discursive strategy and shift: the ways in which the ulama construct their discourses within the paradigms of the existing Islamic legal and theological schools and the way the Western political philosophies, particularly constitutionalism and legitimacy, may have shaped their ideas. I also discuss the extent to which they called for reformulation of Islamic political tradition. I argue that the ulama responded to recurrent phenomena of usurpation in history by mobilizing historical arguments from Islamic intellectual legacy (*turāth*). Despite their divergent substantive opinions and approaches to the issue of usurpation, they share a commitment to Islamic tradition. This reliance on tradition contrasts with the tendency of the Western Post-Enlightenment thinkers who perceive the past as darkness and immaturity. My dissertation also demonstrates how modernity informs contemporary ulama to generate various approaches to the agreed-upon pre-modern legal norms of usurpation of power.

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## NOTE ON TRANSLATION AND CONVENTION

In general, I follow the IJEMS (International Journal of Middle East Studies) transliteration system. However, I omit transliteration and special characters for common and well-known terms and names, such as *ulama* (instead of *‘ulamā’*) and the Prophet Muhammad (instead of Muḥammad) except for someone’s name other than the prophet, such as Muḥammad Mursī. I write words that have become part of English parlance without diacritics, such as Quran and hadith.

I use Arabic transliteration to write a theological and legal school and period instead anglicized name. I write, for instance, Mu‘tazila (instead of Muktazilite), Khawārij (instead of Kharijite), and Shī‘a (instead of Shi’ite). However, I use the anglicized name to refer to dynasty, such as Umayyad (instead of Umayya), Abbasid (‘Abbāsiyya), and Ottoman (instead of ‘Uthmāniyya).

Dates of events and period of life of scholars are written according to *hijri* or Islamic calendar followed by common era.

CHAPTER I  
INTRODUCTION

*Overview*

The Arab Spring, which erupted in 2011, has brought again to the memory of the contemporary Muslim scholars (ulama) the classical discourse of *taghallub* (usurpation of power). This discourse has been employed and debated fervently mainly among Egyptian ulama after the ouster of the late President Muḥammad Mursī in 2013 by the military force. Two positions appear among them, namely a justification and rejection of the ouster. The first inclination is represented by the structural ulama, or those who serve and part of the government's structure, such as the Grand Shaykh of al-Azhar, Dr. Aḥmad Ṭayyib, and the former *muftī* of the country, Dr. 'Alī Jum'a.<sup>1</sup> The latter was the most outspoken figure who invoked the idea of usurpation of power from Islamic tradition to legitimize the military coup.<sup>2</sup> The second position is exemplified by the so-called "the peripheral ulama" or those who remain outside the official Islamic

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<sup>1</sup> For 'Alī Jum'a's discourse, watch 'Alī Jum'a, "'Alī Jum'a wa Huwa Yakhtub Amāma 'Askar al-Inqilāb, al-Liqā' al-Musarrab Kāmil," (Shabka al-Marṣad al-Ikhabāriyya, October 10, 2013), accessed May 18, 2019. [https://www.youtube.com/watch?v=s5\\_r-zV5Tj4](https://www.youtube.com/watch?v=s5_r-zV5Tj4).

For the existing research on this matter, read Mohammad Fadel, "Islamic Law and Constitution-Making: The Authoritarian Temptation and the Arab Spring," *Osgoode Hall Law Journal* 53, no. 2 (2016): 471–507; David H. Warren, "Cleansing the Nation of the 'Dogs of Hell': 'Ali Jum'a's National Legal Reasoning in Support of the 2013 Egyptian Coup and Its Bloody Aftermath," *International Journal of Middle East Studies* 49, no. 3 (July 26, 2017): 457–77.

<sup>2</sup> Besides Aḥmad Ṭayyib and 'Alī Jum'a, there are other prominent clerics in Egypt who assented the overthrow and espoused the discourse of usurpation, namely Muḥammad Ruslān dan Yāsir Burhāmī. I will elaborate on their views in chapter 5.

establishment in Egypt, such as Dr. Yūsuf al-Qaraḍāwī.<sup>3</sup> This scholar, who has been living in exile for more than five decades, did not only reject the overthrow of Mursī and supported his legitimacy, but also refuted the invocation of the classical concept of usurpation of power by his fellow Azhari scholars.<sup>4</sup>

Rather than interpreting the debate among modern Muslim scholars regarding the idea of usurpation of power, the current dissertation undertakes a more foundational task, which is tracing the discourse's evolution until it reaches its form in the Arab Spring period. My study deals with the discursive formation and transformation in Islamic political thought. In particular, it seeks to problematize the disruption of modernity into the traditional discourse of the Muslim scholars.

The specific questions framing this research are:

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<sup>3</sup> The term “peripheral ulama” was coined by Malika Zeghal in “Religion and Politics in Egypt: The Ulema of al-Azhar, Radical Islam, and the State (1952–94),” *International Journal of Middle East Studies* 31, no. 3 (1999): 371–99.

<sup>4</sup> Yūsuf al-Qaraḍāwī, “Rudūd ‘Ilmiyya ‘alā al-Shaikh al-Jinrāl aw al-Jinrāl ‘Alī Jum‘a,” [www.al-qaradawi.net](http://www.al-qaradawi.net), accessed March 20, 2020, <https://www.al-qaradawi.net/node/2849>. I will elaborate on his discourse in chapter five.

As a matter of fact, al-Qaraḍāwī was not the only Azhari ‘*ālim* who resisted the ouster of Mursī. Other ulama are the late Muḥammad ‘Imāra, the former editor in chief of the al-Azhar magazine, and Ḥasan al-Shāfi‘ī, the former deputy of grand shaikh of al-Azhar. Muḥammad ‘Imāra, “Dr. Muḥammad ‘Imāra: mā Ḥadatha Inqilāb ‘Askarī wa Mursī lahu fī A‘nāqinā Bai‘a,” Youtube Vlog, *Video Taushīr*, August 28, 2014, accessed on December 2, 2021, <https://www.youtube.com/watch?v=BWr1g9shfVc>. For al-Shāfi‘ī’s discourse watch Ḥasan al-Shāfi‘ī, “Bayān li al-Duktūr Ḥasan al-Shāfi‘ī Mustashār Shaikh al-Azhar,” TV Broadcast, *AlJazeera Channel*, accessed December 2, 2021, <https://www.youtube.com/watch?v=oEG45y6I6rA>.

For the existing research on al-Qaraḍāwī’s view, read David Warren, “The ‘Ulamā’ and the Arab Uprisings 2011-13: Considering Yusuf al-Qaradawi, the ‘Global Mufti,’ between the Muslim Brotherhood, the Islamic Legal Tradition, and Qatari Foreign Policy,” *New Middle Eastern Studies* 4 (2014): 2–32; Aria Nakissa, “The Fiqh of Revolution and the Arab Spring: Secondary Segmentation as a Trend in Islamic Legal Doctrine,” *The Muslim World* 105, no. 3 (June 25, 2015): 398–421, <https://doi.org/10.1111/muwo.12098>; Youssef Belal, “Islamic Law, Truth, Ethics,” *Comparative Studies of South Asia, Africa and the Middle East* 38, no. 1 (May 1, 2018): 107–21, <https://doi.org/10.1215/1089201x-4390015>.

- 1) How did the discourse of usurpation of power (*taghallub*) emerge and develop throughout a long span of Islamic history from the pre-modern period until the contemporary times?
- 2) What are some of the theological and legal reasonings and socio-political circumstances that contributed to the persistence and change in the ulama's ideas about usurpation of power?
- 3) What implications could these ideas about usurpation of power bring to the study of Islamic political thought?

The main focus of this research is about discourses of ulama on politics, which centers around a means to acquire power to be a ruler. The actual practices of usurpation in Islamic history will be explicated only so long as they serve as a historical context for the ulama's discourses. Furthermore, my study does not propose a normative understanding of usurpation based on the theological and legal foundations of Islam, the Quran and hadith. Rather, it traces how the ulama, particularly theologians (*mutakallimūn*) and jurists (*fuqahā'*) construct a discourse about usurpation of power. It includes the question of how the ulama view the actual practices of usurpation in Islamic history, how they invoke an existing intellectual tradition on usurpation, and how they place usurpation in the existing formal methods of establishing a rulership in Islamic political thought.

This study, in particular, seeks to unravel both continuity and change in ulama's discourse on the usurpation of power. In this regard, I pay particular attention to how the pre-modern and modern ulama formulate their arguments about usurpation within the paradigm of legal and theological *madhhabs*. Among methodological issues that I investigate are: what are their attitudes to the existing *madhhabs'* norm about

usurpation? To what extent do they believe in and call for reformulation of Islamic political tradition?

When I examine discourses of modern Muslim scholars, I pay attention to the way western modern political concepts shape their voices and outlooks. By arguing for the relevance of tradition in the Muslim scholars' discourse, I investigate both the discursive strategy and discursive shift of ulama in dealing with Islamic political thought.

Unlike the existing scholarship on the topic that commonly asks *why* ulama construct a particular position in their respective social-political setting, my study seeks to explain *how* the issue of usurpation underwent both viability and alterity throughout a lengthy span of time. My contribution also lies in the diachronic historical approach to the topic I invoke. Several prior works, which I will discuss in the next chapter, tend to look at the issue from a micro-history, viewing it from a specific case or a particular scholar's outlook. As a result of this narrow approach, their representation of history tends to be essentialist. In this study, I conduct a broad-spectrum observation, ranging from the formation period in the second/eight century until the ninth/fifteenth, jumping to the early twentieth century, and ending up at the contemporary period. Therefore, tradition and modernity are the key terms that serve as two analytical concepts for my dissertation.

My overarching argument is as follows. The ulama's discourses, both as a substantive opinion (*qawl*) and a modality (*manhaj*) of an opinion, witness several historical phases and undergo discursive shifting. They materialized in the period of the eponyms of legal and theological schools. They then witnessed the period of systematization and discursive pluralism afterward. Thanks to the pervasiveness of acts of usurpation in history, the ulama accepted usurpation to avoid discord among society and ensure shariah is implemented with support from any ruler, regardless of how they

acquire power. Bolstered by the domination of epistemology of *taqlīd*, at the hand of systematizers of *madhhabs*' opinions, their discourse entered the phase of uniformity. Eventually, at the end of the nineteenth century, almost all ulama from various Sunni legal and theological schools accepted usurpation as the third way to acquire a position of *imām*. Due to the encounter with western modernity and the political crises epitomized by the abolition of the caliphate in the twentieth century, the ulama's discourses of usurpation entered the state of plurality again. Modernity, in this regard, catalyzes several reactions among ulama in the early twentieth century. Some of them embrace western political cosmology, i.e., secularism, which provoke them to dismantle the whole classical conception of imamate. Some seek to refashion the traditional views by criticizing the historical practices of usurpation. Others are more preoccupied with assuring that Islamic political thought is grounded on Islamic tradition by replicating the same construction of usurpation in the doctrine of their *madhhab*. In other words, modernity has enabled various approaches to the agreed-upon pre-modern legal norm of usurpation of power.

The nuance of the ulama's discourse, again both in terms of substantive idea and method, persists until the current time. During the Arab Spring, this multiplicity of opinions and approaches to the issue of usurpation is manifested in the views of various competing ulama in Egypt. In this period, the intrusion of western political philosophy becomes more evident in the discourses of each group of ulama. In other words, tradition and modernity are imbricating each other in shaping the discourse of ulama, those who support violent and procedural legitimacy alike. What is peculiar about the Arab Spring period is that the level of disagreement among them on the issue has been unprecedented in Islamic intellectual history. It reaches the state of condemnation and exclusion from Islamic orthodoxy and normativity. However, despite a nuance of



opinions and approaches of the ulama in dealing with the issue of usurpation, tradition always stands as a backbone of their respective contentions. It is this attitude of referring to the Islamic past that distinguishes the ulama as political thinkers who act as custodians of tradition from secular-oriented intellectuals and activists.

### *Clarification of the Concept of Usurpation of Power*

I define “usurpation of power” in this research as an act of acquiring a position of a leader by a holder of physical force with coercion disregarding a legitimate means, which eventually compels people to recognize him as an actual holder of power.

In order to make the above definition clear, I employ two methods in the field of logic: particularisation (*tafṣīl*) and contrasting (*muqābala*). Particularization needs to be undertaken to explain categories that are subsumed under this definition. Contrasting is significant to demonstrate the uniqueness of the subject and its differences from other related topics.

“The acquisition of a position of a leader” in the above definition refers to an unlawful act of encroachment against a ruler which may materialize in one of the three following constituents: *coup*, *domination*, and *seizure of local territory*.

1. *Coup* is an act of overthrowing an *imām* from his office and installing another person in his position.
2. *Domination* is an activity of controlling an *imām* as a figurehead and gaining his recognition for a position of deputy (*sulṭān*) in charge of political and executive affairs.<sup>5</sup>

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<sup>5</sup> A controller of a caliph in this case, does not intend to take over his position. What he wants to gain is an actual authority to control government and power. Therefore, such a person does not use the term caliph for himself. As Ibn Khaldūn notes:

“Thus, in gaining control, he does not plan to appropriate royal authority for himself openly, but only to appropriate its fruits, that is, the exercise of

3. *Seizure of local territory* is an act of controlling a certain area of a caliphate and obtaining an *imām*'s recognition for being a governor of this territory or being a ruler of an independent dynasty (*amīr* or *walīyy*).

In the pre-modern Islamic political scholarship (*al-turāth al-siyāsī al-Islāmī*), the term *taghallub* had been used by jurists and theologians to refer mainly to the first action, which is overthrowing an existing ruler. However, it is not uncommon to find the ulama also use the word *taghallub* to denote the other two actions of encroachment as well.<sup>6</sup> Likewise, there are other terms but rarely used to indicate an act of coup against a ruler, which are *istilā' bi al-shawka* (appropriation with military power) and *istizhār bi minna wa 'idda* (winning with power and number).<sup>7</sup> Modern scholarship added two other terminologies to the repertoire, which are: *saytara* (dominance)<sup>8</sup> and *inqilāb 'askarī*<sup>9</sup> (military coup) to denote this action.

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administrative, executive, and all other power. He gives the people of the dynasty the impression that he merely acts for the ruler and executes the latter's decisions from behind the curtain. He carefully refrains from using the attributes, emblems, or titles of royal authority.” Ibn Khaldūn, *An Introduction to History: The Muqaddimah*, trans. Franz Rosenthal (New York: Pantheon Books, 1958), 379; see the original text in Waliyy al-Dīn 'Abd al-Raḥman ibn Khaldūn, *al-Muqaddima*, ed. 'Abd Allāh Muḥammad al-Darwīsh (Damaskus: Dār al-Balkhī and Maktaba al-Hidāya, 2004), I: 359.

<sup>6</sup> See, for instance, how Ibn Khaldūn uses the term *taghallub* to refer to act of domination in *al-Muqaddima*, I: 271-2. On another occasion, he uses *taghallub* to denote to an act of ousting a ruler and installing someone else as a substitute which becomes the subject of this dissertation. *Al-Muqaddima*, I: 357. See how Abū 'Abdullāh al-Ḥalīmī uses the term *taghallub* to refer to the third type of action, seizure of local territory, in *Kitāb al-Minhāj fī Shu'ab al-Īmān*, ed. Ḥalīmī Muḥammad Fauda (Dār al-Fikr, 1979), II: 168-169.

<sup>7</sup> A scholar who uses this terminology is al-Juwaynī. See, Abū Ma'ālī 'Abd al-Mālik al-Juwaynī, *Ghiyāth al-Umam fī Tiyāth al-Zulam*, ed. Muṣṭafā Ḥilmī and Fuād 'Abd al-Mun'im (Alexandria: Dār al-Da'wah, n.d.), *Ghiyāth al-Umam*, 231.

<sup>8</sup> 'Abd al-Razzāq al-Sanhūrī, *Fiqh al-Khilāfa wa Taṭawwuruhā* (Cairo: Mu'assasa al-Risāla and Manshūrāt al-Halabī al-Huqūqiyya, n.d.), 229.

<sup>9</sup> Yūsuf al-Qaradāwī, “Rudūd 'Ilmiyya 'alā Al-Shaikh al-Jinrāl aw Al-Jinrāl 'Alī Jum'a,” [www.al-qaradawi.net](http://www.al-qaradawi.net), September 17, 2013, <https://www.al-qaradawi.net/node/2849>.

It is also noteworthy that the second and third categories of action have another specific term referring to them besides *taghallub*. Al-Māwardī, a scholar living in the time of Buyid and Saljūq dynasty, in his *al-Aḥkām al-Sulṭāniyya* uses the term *al-ḥijr* to denote to the second action and *al-istilā`* *alā al-imāra* to refer to the third action.<sup>10</sup> Ibn Khaldūn, who witness the tumultuous period of the Mamlūk dynasty, in *al-Muqaddima* uses the terms *al-ḥijr* and *al-isbtidād* to denote to the second type of action.<sup>11</sup> For the sake of simplicity, throughout my study, I will consistently use the term *taghallub* for the coup, *al-ḥijr* for the domination, and *al-istilā`* for the seizure of local territory.

From the above particularization, it becomes evident that acts of usurpation of power had been taking place in Islamic history not only to acquire a position of a caliph but also to gain a lesser but autonomous authority, which are a position of a caliph's deputy and/or a ruler of an independent dynasty. In other words, usurpation of power had ensued in Islamic history to acquire either partial or complete political power.

Nonetheless, this dissertation will be devoted mainly to examining the first category, which is an act of ousting an existing ruler and installing another person in the office. This is given that this type of action has become a perennial issue in Islamic political thought and has been transpiring since the early period until the contemporary time. The second and the third act of encroachment against a ruler, which are hegemony and local seizure will only be the subject of chapter 3 that specifically examine the discourses of the pre-modern ulama. As I will show in due course, the ulama in modern period no longer problematize these two actions and hardly mention them in their treatise. The reason for this is that the context where they live in is no longer the

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<sup>10</sup> Abū al-Ḥasan `Alī al-Māwardī, *al-Aḥkām al-Sulṭāniyya wa al-Wilāyat al-Dīniyya*, ed. Aḥmad Mubārak al-Baghdādī (Kuwait: Maktabah Dār ibn Qutaiba, 1989), 27-8, 40-46.

<sup>11</sup> Ibn Khaldūn, *al-Muqaddima*, I: 357.

caliphate system. The institution of sultanate that control and subdue caliphs no longer exist and multiple nation states has come in presence.

With regard to contrasting, one concept in the imamate discourse needs to be delineated and compared to a usurpation of power, which is rebellion (*baghy*).<sup>12</sup> This concept is highly correlated yet different from the subject of this dissertation. The contrast is important to avoid a tendency to lump these two actions together as one category as another researcher has done. Muḥammad Shawā, a contemporary researcher, has examined the topic of usurpation of power in quite lengthy pages. The shortcoming of his writing, besides the fact it is normative and jurisprudential instead of a historical and analytical work, is the confusion between usurpation of power and rebellion. When Shawā talks about the legal opinions of jurists regarding usurpation, he refers to the legal texts on rebellion. In other words, he quoted from incorrect passages and conflated them to distinct discourses.<sup>13</sup>

In his rigorous study about rebellion, Khaled Abou El Fadl already alludes to a difference between discourse of rebellion and usurpation of power. Speaking about the limitation of his study, he states: “the issue of recognizing the legal acts of the usurper needs to be completely reexamined.”<sup>14</sup> However, in what ways these two discourses are different is something that he does not explain.

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<sup>12</sup> Several scholars have examined the topic of rebellion in the Islamic intellectual tradition. Among them are Khaled Abou El Fadl who studies this concept very thoroughly and Mohammad Farid bin Mohammad Sharif who focuses on the discourse of the Damascene scholar Ibn Taimiyya. See, Khaled Abou El Fadl, *Rebellion and Violence in Islamic Law* (Cambridge University Press, 2006), Mohammad Farid bin Mohammad Sharif, “Baghy in Islamic Law and the Thinking of Ibn Taymiyya,” *Arab Law Quarterly* 20, no. 3 (2006): 289–305.

<sup>13</sup> Muḥammad al-Shawā, *Wilāya al-Mutaghallib: Dirāsah Fiqhiyya Muqārana*, accessed March 22, 2020, <http://www.feqhup.com/uploads/144071642404331.pdf>, 17-19, 28-36.

<sup>14</sup> Abou El Fadl, *Rebellion and Violence*, 14.

I argue that conflation and confusion are conceivable but unacceptable. It is conceivable because both usurpation (*taghallub*) and rebellion (*baghy*) share a similarity. Both are an action that has an element of intention of acquiring power. Also, some ulama, such as Ibn Qudāma, discusses usurpation in the chapter of fighting rebels (*qitāl ahl al-baghy*).<sup>15</sup> Others, like al-Ḥalīmī, discuss rebellion in the midst of the discussion about usurpation.<sup>16</sup> They treat these two actions as distinct but connected each other which create an impression that they are one category. However, despite one commonality and strong relationship, the differences between usurpation and rebellion are quite significant and substantive.

There are at least three differences between these actions. First, while the utmost purpose of usurpation is always to acquire power, totally or partially, it is not always the case with rebellion. Some rebellions in Islamic history were motivated by a desire to gain power, such as the one led by Zayd ibn ‘Alī against the caliph ‘Abd al-Mālik ibn Marwān in 122/739, and al-Nafs al-Zakiyya against Abū Ja‘far al-Manṣūr (the second caliph of the Abbasid) in 145/762, but some others are not.<sup>17</sup> They erupted more as a protest and resistance against a ruler’s policies. The examples of this kind of rebellion are numerous. The most notorious of them is the rebellion by people of Kufah against caliph ‘Uthmān ibn ‘Affān protesting him for privileging his clan the Umayyads and overriding others as governors, and rebellion by Ibn Muljam against Imām ‘Alī which in both cases ended up with the assassination.

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<sup>15</sup> Muwaffaq al-Dīn Abū ‘Abd Allāh Ibn Qudāma al-Maqdisī, *al-Mughnī*, ed. ‘Abd Allāh ibn ‘Abd al-Muḥsin al-Turkī and ‘Abd al-Fattāḥ Muḥammad al-Ḥalw (Riyād: Dār ‘Ālam al-Kutub, 1997), XII: 243.

<sup>16</sup> al-Ḥalīmī, *Kitāb al-Minhāj fī Shu‘ab al-Īmān*, II: 168-9.

<sup>17</sup> Al-Ash‘arī listed the twenty-five rebellions led by *ahl al-bayt* in the early Islam. Read Abū Ḥasan ‘Alī ibn Ismā‘īl al-Ash‘arī, *Maqālāt al-Islāmīyyīn wa Ikhtilāf al-Muṣallīn*, ed. Muḥammad Muḥyi al-Dīn ‘Abd al-Ḥamīd (Beirut: al-Maktaba al-‘Aṣriyya, 1990), I: 151-166.

Second, in usurpation, ulama require that an actual seizure of power (*al-sayṭara al-fi'liyya*) already takes place. In other words, an action is called usurpation if it succeeds in achieving its goal, which is overthrowing an *imām* and installing a usurper as a ruler or controlling him and gaining his recognition.<sup>18</sup> If an act is still in progress or fails because an existing ruler already defeats it, it is called rebellion. Regarding this distinction, jurists usually refer to a conflict between 'Abd al-Mālik ibn Marwān and 'Abd Allāh ibn Zubayr in 73/69 during the Umayyad period. Some jurists explain that the Muslim communities at that moment were willing to recognize 'Abd al-Mālik as a usurper and an actual caliph (*al-khalīfa al-mutaghallib*) because he defeated his competitor, Ibn Zubayr.<sup>19</sup> This implies that once he fails, the ulama will not admit him as a caliph but only a rebel.

This differentiation between usurpation and rebellion is clearer and easier to grasp if we pay attention to the discourse of the likes of 'Alī Jum'ā in the wake of the military coup in Egypt in 2013. He did not invoke the legal discourse of rebellion to address the coup against the late president Mursī. Instead, he used the discourse of usurpation. His very famous statement addressing the coup was: “*asbaḥnā al-mutaghallibīn* (we have become defeaters or usurpers).”<sup>20</sup> He did so because General 'Abd al-Fattāḥ al-Sīsī successfully toppled Mursī. Once he fails, he is only a rebel. Surprisingly, Jum'ā invoked the term rebels (*khawārij*) to address Mursī and his

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<sup>18</sup> Al-Sanhūrī, *Fiqh al-Khilāfa wa Taṭawwuruhā*, 229.

<sup>19</sup> Ibn Qudāma, *al-Mughnī*, XII: 243; al-Sanhūrī, *Fiqh al-Khilāfa wa Taṭawwuruhā*, 229.

<sup>20</sup> This statement appears in an interview on 23/8/2013 by the journalist Khairī Ramadān. See Alī Jum'ā, “Faḍīla al-Imām al-Duktūr 'Alī Jum'āh wa Ru'yah Taḥlīliyya li mā Yaḥduth fī Al-Bilād,” published on August 24, 2013, accessed May 20, 2019, <https://www.youtube.com/watch?v=52DMpHZBxE4>.

supporters who insisted that his presidency was legitimate and must be restored.<sup>21</sup> The invocation of a discourse of usurpation for the successful coup and discourse of rebellion for the toppled president by ‘Alī Jum‘a demonstrates that both are different.

Third, rebellion is more general than usurpation of power in terms of means and techniques. Rebellion does not necessarily come with violence and physical coercion. It can ensue with another means which is a reluctance to recognize a chosen caliph and actively warn people not to obey him. As Abou El Fadl maintains: “rebellion could be an act of passive non-compliance with the orders of those in power, or on the other hand, it could be an act of armed insurrection.”<sup>22</sup> This is in contrast with the usurpation of power which always involve a holder of power (*dhū shawka*).

After defining the concept of usurpation through particularization and contrasting, the next section explains the method to undertake this research.

### *Research Method*

In examining the discourses of ulama, this study employs a macro-history approach. It categorizes the discourses of ulama into two major times, namely pre-modern and modern times. Each consists of several subdivisions. I employ a *longue durée* approach to discover viability and changes that would not be evident if I use microhistory. Categorizing discourses into pre-modern and modern periods draws on an assumption that modernity has brought tremendous change to ulama’s discourse. It is such a determining moment for intellectual landscape of Muslim history. It transforms the substantive opinion (*qawl*) and the modality (*manhaj*) of Muslim discourses. This transformation can be located only by problematizing modernity itself and looking at it

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<sup>21</sup> I elaborate Jum‘a’s discourse in chapter 5.

<sup>22</sup> Abou El Fadl, *Rebellion and Violence*, 4, see also al-Dumayjī, *al-Imāma al-Uzma*, 490-491.

as the juncture of a new epoch in human history. Therefore, on the one hand, this study is Foucauldian in the sense that it looks at the moments of change.

On the other hand, I go beyond the Foucauldian method, which suggests that historians' duty is not to find regularities, but rather irregularities or shift of episteme.<sup>23</sup> According to Foucault's logic, a historian should pay attention to differences between the juncture of history instead of sameness. What I undertake in this dissertation instead is combining the examination of continuity and rupture. In other words, while looking at the moment of transformation, I turn my gaze to the disruption and stability of ideas in Islamic political thought.

This study employs the intellectual history approach. In doing so, I investigate the roles of historical context in forming the discourse of usurpation of power and how the discourse evolves over periods. Inspired by Ovamir Anjum, this study looks at three components of analysis. First, it examines the socio-political context of ulama's discourse. Second, it studies the contents of the discourse. In this regard, I examine what arguments ulama use in their discourse: how doctrines of their *madhhab* and the intrusion of western concept shape their ideas. Third, I study a discourse's position within the Islamic discursive tradition. At this level, the study deals with how discourse is influenced by the previous discourses and influences the next ones and how a scholar abides by or by contrast, departs from the existing traditional norm.<sup>24</sup>

An interconnected approach, that simultaneously looks at social-political circumstances and modes and contents of reasoning, is an alternative to a monodisciplinary approach that treats them separately. The first framework draws

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<sup>23</sup> Michel Foucault, *The Archeology of Knowledge*, 135-198; Michel Foucault, *The Order of Things: An Archaeology of the Human Sciences* (London: Routledge, 1966).

<sup>24</sup> Ovamir Anjum, *Politics, Law and Reason in Islamic Thought: The Taymiyyan Moment* (Cambridge: Cambridge University Press, 2012), 19.



largely on the socio-historical field, which emphasizes the analysis of structural and material conditions of pre-modern societies but disregards Islamic texts. It is not surprising then, according to this approach, Muslim discourses and behaviors in modern times are mere responses to social and political conditions. It also ignores the agency of Muslims. They are seen as only a captive of their material condition.<sup>25</sup> The latter framework focuses solely on describing micro discourses of Muslim scholars through philological approach overlooking engagement and conversation with broader issues across disciplines.<sup>26</sup>

Another point that needs to be mentioned here is regarding the source of research. This study uses both primary and secondary sources. To reconstruct the socio-political context of discourse, I rely on the books of *tārīkh* (chronicle). To analyze the discourses of pre-modern ulama on the usurpation of power this research refers to primary sources, which are books of theology (*kalām*) and law (*fiqh*). To say it differently, I locate the discourse of ulama on usurpation from their treatise on theological and legal issues. It is true that authors of *tārīkh* also deal with usurpation. However, they tend to merely report historical events or chronological aspects of a certain act of usurpation instead of regulating and prescribing it. Therefore, in my opinion, they do not fall under the category of references for Islamic political thought. To

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<sup>25</sup> One of the critiques to this paradigm is Ovamir Anjum. See “Has Modernity Ruptured Islamic Political Thought?,” in *The Sociology of Islam: Secularism, Economy, and Politics*, ed. Tugrul Keskin (UK: Ithaca Press, 2011), 45–61. See also,

<sup>26</sup> Carl Ernst and Richard Martin have argued that philological approach, which becomes the favorite approach of the orientalists, has suffered from inward-looking tendency which make the field impenetrable by non-specialist scholars. See, Carl W. Ernst and Richard C. Martin, eds., *Rethinking Islamic Studies: From Orientalism to Cosmopolitanism* (Columbia, S.C.: University Of South Carolina Press, 2010), 13-5. In the same vein, Shahab Ahmed mentions the shortcoming of this approach as being over-textual and reluctant to theorization. See, Ahmed Shahab, *What Is Islam?: The Importance of Being Islamic* (Princeton; Oxford: Princeton University Press, 2017), 114.

examine the discourses of the contemporary ulama, I rely on various online sources that contains sermons of the ulama under study and their writings published on several official websites.

The next point to mention is that my examination of the ulama's discourse is illustrative rather than exhaustive. It does not describe discourses of all ulama who made arguments on usurpation. Instead, I select a few ulama from each period. I base my selection of ulama in this study on the following criteria. First, they represent a certain epoch. Each epoch has its distinctive remarkable political events and concerns. Second, they represent a certain methodological tendency regarding legal and theological thought. For the pre-modern period, I select scholars from major schools of theological thoughts, namely Ahl al-Ḥadīth, Ash'aria, Mu'tazila, and Māturidiyya. In the field of law, I choose scholars from Ḥanafī, Mālikī, Shāfi'i, and Ḥanbalī. Third, probably the most important one, their writing provides significant materials to analyze. In other words, they make a theoretical contribution to the formation and transformation of the discourse of usurpation.

### *The Structure of Dissertation*

The current dissertation consists of six chapters. Chapter 1 is the introduction, in which I present the research questions, the definition of the concept, the method of research, and the contours of writing. In chapter 2, I map a literature review concerning usurpation of power, describe the theoretical framework I employ, the approach to understand ulama's discourse, and imamate discourses which constitutes the larger intellectual context where one can locate discursive treatments of usurpation of power.

In chapter 3, I examine what Foucault calls in *The Archeology of Knowledge* “discursive formations”.<sup>27</sup> I explain when, where, and under what circumstances the discourse about *taghallub* appears. I then explicate the evolution of this concept in the pre-modern period, explaining how it entered the period of creativity or diversification, and ended up in the period of stability. I then unpack the question of “rules of formation”<sup>28</sup> in which I expound why in the pre-modern period, the concept of *taghallub* ended up in uniformity of discourses. The specific issue that I grapple with is how this relative homogeneity became materialized in history. Employing the notion of legal inertias, I explain that *taqlid* (legal conformity) and pervasiveness of actual usurpation are two main factors that led the stability of discourse become possible.

In chapter 4, I examine what MacIntyre calls the “epistemological crisis”.<sup>29</sup> With the background of the fall of the Ottoman and the encounter with the western political system and epistemology in the early twentieth century, I examine the changes in the discourse of the ulama on usurpation. My primary contention in this chapter is that the modern period caused views of ulama to become plural and more nuanced. However, it does not cause what MacIntyre refers as “a “dissolution of historically founded certitudes.”<sup>30</sup> Furthermore, tradition remains important in the ulama’s discourse besides the newly emerging tendencies and modalities. My study in this chapter focuses on the discursive strategy of the ulama.

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<sup>27</sup> Michel Foucault, *The Archeology of Knowledge*, 31.

<sup>28</sup> This is also a term coined by Michel Foucault. It analyzes the question of why a certain idea experiences regularity and constancy and what are the rules that make it possible. Foucault, *The Archeology of Knowledge*, 40-9.

<sup>29</sup> Alasdair MacIntyre, *Whose Justice? Which Rationality?* (Notre Dame: University of Notre Dame Press, 2008), 362.

<sup>30</sup> MacIntyre, *Whose Justice? Which Rationality?*, 362.

In chapter 5, I investigate the discourses of the ulama regarding the overthrow of Muḥammad Mursī in 2013 by the Supreme Council of Armed Forces of Egypt. I draw on and elaborate Max Weber's classification of leadership. I explain the types of reasoning that have been used to respond to such an event. I also elucidate how scholars negotiate between tradition and modernity in their discourse: the ways in which they approach the pre-modern established norms, and the modern political concept shapes their discourse. My argument is that western philosophy, particularly the idea of legitimacy, has equally seeped into the discourse of ulama. Moreover, the idea of usurpation is more contested among them compared to the previous period. This issue becomes a field through which each group claims normativity and excludes the other from orthodoxy.

Chapter 6 summarizes the development of discourse throughout history, continuity and change in the discourse, and factors that make break and stability materialize. I then briefly discuss the question of what the profound reliance on tradition by ulama and their openness to modernity inform us about modern Islamic political thought. Eventually, I show how my study contributes to religious studies in general and Islamic political thought in particular, and how it fits within the current orientation among academics regarding the issue of usurpation of power.

## CHAPTER TWO

### LITERATURE REVIEW AND REORIENTING APPROACH

#### *Literature Review*

There has not been enough attention paid to the issue of usurpation of power. Most of the scholars who study usurpation allude to it only in passing when they examine the thoughts of the medieval political theorists, such as al-Māwardī and Ibn Jamā‘a. Their discussion of usurpation of power appears only as a brief statement that lacks a complete account of evolution of the discourse which includes its formation and transformation. Another type of existing study is those examining the invocation of this concept during the Arab Spring by contemporary ulama.

The first modern scholar addressing the issue of usurpation of power is a British orientalist, Hamilton Gibb. His concern in his study is the early emergence of ulama’s treatment of usurpation of power. In line with his general assessment of Islamic political thought as a mere justification of existing political realities, Gibb maintains that even though usurpation of power had become a historical reality for decades, it is al-Māwardī who for the first time addresses this issue in his legal treatises *al-Aḥkām al-Sulṭaniyya*. He does so to protect the Abbasid caliphate and strengthen the position of its caliphs against the control of the Buyids and the Saljūqs. Gibb maintains: “Before al-Mawardi, it seems, no jurist had formally recognized this practice, but if, as has been suggested, his work had a programmatic purpose, it was necessary for him to regularize the situation to

the best of his ability.”<sup>1</sup> Gibb refers to a phenomenon of local seizure (*al-istīlā’ ‘alā al-imāra*) in this statement.

Gibb maintains that the acceptance of usurpation of power by ulama has two implications in Islamic political thought. First, the acceptance of seizure of amirates (provinces) by local usurpers by al-Māwardī symptomizes the crumble of “the whole structure of the juristic theory of the caliphate” in general.<sup>2</sup> Second, the legalization of usurpation as the official means to come to the position of imamate in Ibn al-Jamā’a’s discourse in a later period is a symbol of secular absolutism. This signifies, Gibb continues, the fact of how the Islamic law regarding the imamate has been abandoned and replaced by secular laws. Concerning this, Gibb writes: “But this doctrine [usurpation], which amounted in effect to a complete divorce of the imamate from the shari’a and the abandonment of the Law in favor of a secular absolutism, was a patent contradiction, which could not be accepted by the general Community of Muslims.”<sup>3</sup>

Ira Lapidus, a socio-legal historian, has interpreted the ulama’s discourse on the usurpation of power in a similar vein. It is worth noting that Lapidus discusses different manifestation of power usurpation, which is the control of caliph by *sulṭān*. He maintains that the establishment of a position of *sulṭān* and *amīr* for those who control the Abbasid caliphs is a symbol of separation between politics and religion (secularism). This is because the position of *sulṭān* or *amīr*, who held the political and administrative

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<sup>1</sup> Hamilton Alexander Rosskeen Gibb, “Constitutional Organization,” in *Law in the Middle East: Origin and Development of Islamic Law*, vol. 1 (Washington DC: The Middle East Institute, 1955), 19.

<sup>2</sup> Hamilton Alexander Rosskeen Gibb, *Studies on the Civilization of Islam* (Princeton, NJ: Princeton Univ Press, 1982), 164.

<sup>3</sup> Gibb, “Constitutional Organization,” 23.

authority, is secular in nature.<sup>4</sup> Lapidus writes: “In later centuries [after the 9<sup>th</sup> century], ..., the Caliph lost his de facto political power to secular military and administrative regimes, albeit to regimes nominally loyal to Islam.”<sup>5</sup>

Patricia Crone also follows Gibb with regards to the historicity of discourse of usurpation of power. She maintains that prior to al-Māwardī, ulama have accepted usurpation as a political reality. Al-Māwardī is the first scholar who codifies the acceptance of this practice. As I will point out in chapter 3, this statement is historically inaccurate. In fact, al-Ḥalīmī came before al-Māwardī in theorizing the issue of local seizure (*al-istīlā’ alā al-’imāra*). Crone also embraces the thesis that Islamic political thought tended toward secular absolutism. She examines al-Ghazālī’s discourse who accepted the brute seizure against the Abbasid caliphs by the Saljūqs’ *sulṭāns*. By doing so, Crone continues, al-Ghazālī reduces the sultanate to a secular power while putting the moral authority on the shoulders of the caliph. This separation between the position of the caliph and the *sulṭān* who usurp his power and control him, according to Crone, is a symbol of acceptance of secularization.<sup>6</sup> Crone invoked the same analytical category to read al-Juwaynī’s political discourse on accepting brute force who takes over a caliph’s power.<sup>7</sup>

Ann K Lambton proposes an alternative with regards to the early formation of the discourse of usurpation of power. She points out that the discourse of usurpation,

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<sup>4</sup> Ira M. Lapidus, “The Golden Age: The Political Concepts of Islam,” *The ANNALS of the American Academy of Political and Social Science* 524, no. 1 (November 1992): 13–25, <https://doi.org/10.1177/0002716292524001002>, 16.

<sup>5</sup> Ira M. Lapidus, “The Separation of State and Religion in the Development of Early Islamic Society,” *International Journal of Middle East Studies* 6, no. 4 (October 1975): 384.

<sup>6</sup> Patricia Crone, *Medieval Islamic Political Thought* (Edinburgh: Edinburgh University Press, 2005), 246-8.

<sup>7</sup> Patricia Crone and Martin Hinds, *God’s Caliph: Religious Authority in the First Centuries of Islam* (Cambridge: Cambridge University Press, 2003), 237.

particularly concerning an overthrow of a legitimate caliph by holder of military power, had already emerged in Islamic political thought at the hand of al-Jāhīz, a Mu‘tazila scholar. Al-Jāhīz, Lambton contends, formulated his discourse to justify the usurpation of power from the Umayyads by the Abbasids. Lambton then discusses al-Māwardī’s discourse on local seizure. Overlooking the secularization thesis, Lambton retains the Muslim-unity and stability thesis. According to her, the ulama, in particular al-Māwardī, formulated this discourse to respond to internal disturbance and external threat, which is the Buyid and Saljūq occupation and the Bāṭinī movement in Egypt.<sup>8</sup> Al-Māwardī, according to Lambton, accepted the actual practices of usurpation of power by the Buyids to solidify the unity of the Sunni world against the Ismaili threat and to avoid any bloodshed taking place when people resist a successful seizure of power.

Mohammad Ya‘qub Khan and Hanna Mikhail follow the same idea regarding the al-Māwardī’s discourse. They believe that al-Māwardī formulated his discourse to save the institution of the Abbasid caliphate as a symbol of Muslim unity that was getting weaker by a control of the foreign governments.<sup>9</sup> Every usurper had to be given the position they wanted with a condition that they had to acknowledge the caliph’s authority.

Riḍwān al-Sayyid is the next scholar who formulates the thesis of Muslim unity. He contends that the reason ulama justified usurpations, meaning overthrowing a legitimate *imām*, and conceded the concept of legitimacy was because they prioritize community’s harmony. They were willing to abandon three instruments of legitimacy,

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<sup>8</sup> Ann K S Lambton, *State and Government in Medieval Islam: An Introduction to the Study of Islamic Political Theory: The Jurists* (London: Routledge, 1981), 87-8.

<sup>9</sup> Mohammad Yaqub Khan, “A Political Study of Al-Mawardi with Special Reference to the Concept of Legitimacy” (Ph.D. Dissertation, 2001), <https://etheses.whiterose.ac.uk/462/>, 226; Hanna Mikhail, *Politics and Revelation: Māwardī and After* (Edinburgh: Edinburgh Univ. Press, 1995), 41



which are consultation (*shūrā*), contract (*‘aqd*), and oath of allegiance (*bay‘a*), to avoid quarrel and conflict among people. Sayyid’s contribution lies in his assertion that the acceptance of usurpation is not the only stance of Muslim scholars during the classical period. There had been another tendency in classical Islamic political thought which tried to balance between a concept of legitimacy and unity of Muslim community. He points out the thought of Abū ‘Abd Allāh al-Ḥalīmī (d. 403/1012), an Ash‘arī theologian and Shāfi‘ī jurist, as a representation of this inclination.<sup>10</sup> After him, al-Sayyid maintains, Islamic political thought underwent a degeneration from legality-community vision to community vision only, meaning a deterioration from a tendency to embrace the combination of legal mechanism to acquire power and people’s unity to a tendency to emphasize only people’s unity.

The next thesis concerning ulama’s discourse of usurpation is to preserve stability and order. Khaled Abou El Fadl, in this regard, seems to argue that stability and unity are two different purposes. He, therefore, contends that instead of being committed to unity of community, ulama cared more about what he calls “legal culture” or “legal imperative” which is “resolving conflict and maintaining order”.<sup>11</sup> Ulama, particularly jurists, had always been inclined toward creating stability and removing any form of disorder in society. In contrast to Sayyid, Abou El Fadl also argues that legitimacy has never been an issue for jurists.<sup>12</sup> What is at stake for them is not how rulers acquire

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<sup>10</sup> Riḍwān al-Sayyid, *al-Umma wa al-Jamā‘a wa al-Sulṭa: Dirāsāt fī al-Fīkr al-Siyāsī al-‘Arabī al-Islāmī* (Beirut: Jadāwil, 2011), 144-151.

<sup>11</sup> Abou El Fadl, *Rebellion and Violence*, 9, 17, 324-5.

<sup>12</sup> In fact, this discourse is not only the concern of jurists but also theologians. The question that arises from Abou El Fadl's thesis is what is the proper interpretation of why theologians also accept the notion of usurpation of power? Does theology also function to stabilize society?

power but legality of their political conduct. Abou El Fadl suggests: “[t]his is exactly why they were willing to recognize the legitimacy of the usurper (*al-mutaghallib*).”<sup>13</sup>

Noah Feldman proposes a theory about supremacy of *sharī‘a* when reading ulama’s discourse on usurpation of power. He rejected Gib’s view that suggested the recognition of usurpation marked a collapse of *sharī‘a*. According to Feldman, this recognition is by no means a form of concession to a usurper. Instead, those views that justified usurpation appeared as an attempt by jurists to compel usurpers to recognize the importance of *sharī‘a* and the position of ulama as the only authoritative institution that can interpret and oversee enforcement of Islamic law and as balancers to rulers. In other words, this recognition was made as a strategy to ensure supremacy of *sharī‘a* and increase bargaining power of ulama. This contention relies on a premise that the symbol and manifestation of the supremacy of *sharī‘a* are not rulers, but scholars.<sup>14</sup>

The research as mentioned above, which focus on examining the pre-modern discourse of usurpation of power, despite their contribution to the field of Islamic political thought, still leaves some gaps. First, all of those scholars above pay their attention exclusively to the analytical question of “why” or are concerned themselves with the causes that compel ulama to accept usurpation. They do not address another way of framing the question, which is the question of modality of discourse or how ulama construct their discourse. My research is an attempt to fill this gap.

Second, from a historical point of view, those studies, except for Abou El Fadl’s works, pay attention only to the formation and crystallization of the concept. With regard to the so-called orientalist, except Lambton, they confine their study of usurpation only

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<sup>13</sup> Abou El Fadl, *Rebellion and Violence*, 158.

<sup>14</sup> Noah Feldman, *The Fall and Rise of the Islamic State* (Princeton, New Jersey: Princeton University Press, 2012), 6, 27-35.

to the discourse of al-Māwardī, al-Ghazālī, and Ibn Jamā‘a. They do not look at how ulama prior to al-Māwardī and after Ibn Jamā‘a discuss this issue. Furthermore, they do not see how this concept has been formulated in the modern and colonial periods. In other words, the general portrayal of the historicity of the discourse is missing in their works.

Third, in examining the classical ulama’s political discourse, some of the scholars mentioned above, particularly Gibb, Patricia Crone, and Ira Lapidus, tend to be essentialists. They do not see the complexity of political visions of Muslim scholars regarding the issue. Instead, they focus only on one tendency which is the one that legalizes usurpation of power. As I will describe in chapter 3, there is nuance and creativity, especially among the early scholars, when it comes to the issue of usurpation. The relative synchronization of ulama’s discourse into tendency of acceptance of usurpation appear in later period. They are also essentialist in the sense that they assume that there is an unchanging form of Shari‘a which al-Māwardī has overturned when he accepts usurpation of power.

Fourth, in reading Islamic intellectual history, they employ a foreign analytical concept, which is the secularism framework. This is not only a sort of anachronism as secularism has never existed in Islamic history, but also a kind of western epistemological coercion which has recently become the subject of the post-colonial study of religion.<sup>15</sup>

The second type of research on this issue examines how the contemporary ulama, particularly in Egypt, justify the military coup against Muḥammad Mursī through the

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<sup>15</sup> I am inspired by Shahab Ahmed who points out the infiltration of western secular cosmology in studying Islam. See, Ahmed, *What Is Islam?*, 211. Nevertheless, the critique of the hegemony of the western conception of religions and its domination over other traditions is pervasive in the field of religious studies.

invocation of the concept of usurpation of power. This second category of research can be classified into two groups. First, those comparing the classical and modern discourse emphasize what I call *the epistemic replication*. Ibrahim Moosa, for instance, maintains that there is no alterity and novelty in the discourse of contemporary ulama who invoked this concept, particularly during the uprisings of the Arab Spring. With regards to the Egyptian turmoil, Moosa argues that the traditionalist ulama of al-Azhar in Egypt still espoused the pre-modern notion of usurpation by *shawka* to legitimize the military coup by the Supreme Council of Armed Forces of Egypt. Ulama of al-Azhar did not care about the language of the modern constitution, democracy, and sovereignty, which disallows the military coup.<sup>16</sup>

Amr Osman employed the same framework. In order to understand the discourse of those rejecting and justifying the coup, he provides the events of the murder of Uthmān ibn ‘Affān and the leadership of ‘Abd Allāh ibn Zubayr from the early Islam as historical precedents which shape the views of the ulama.<sup>17</sup>

The limitation of Moosa’s study in particular is the fact that he does not describe the pre-modern discourses of usurpation thoroughly. As a result, he essentializes the pre-modern Islamic tradition. Another weakness is with regard to the way he examines modern ulama’s discourse. Moosa disregards any novelty or departure in the contemporary ulama’s discourse. In the same vein, Osman fails to recognize something other than traditional ideas from history which become a constitutive factor to the ulama’s discourses.

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<sup>16</sup> Ibrahim Moosa, “Political Theology in the Aftermath of the Arab Spring,” in *The African Renaissance and the Afro-Arab Spring: A Season of Rebirth?* (Washington DC: Georgetown University Press, 2015), 113.

<sup>17</sup> Amr Osman, “Past Contradictions, Contemporary Dilemmas: Egypt’s 2013 Coup and Early Islamic History,” *Digest of Middle East Studies* 24, no. 2 (September 2015): 303–26, <https://doi.org/10.1111/dome.12071>.

I contend that total imitation and negligence of classical discourses is hardly possible since the contemporary ulama of Egypt are also responding to their circumstances. As Muhammad Qasim Zaman has argued, since the modern period, ulama have become “custodians of change”, meaning they accept some facets of modernity by relying on tradition.<sup>18</sup> Thus, scholars embracing this framework have little interest to see how factors other than a commitment to classical opinions, such as an institution of a state and modern western political doctrine, have shaped ulama’s discourse of usurpation of power.

Second, contrary to the first paradigm, those who emphasize *the epistemic rupture* of the discourse of modern ulama from the classical views underline two reasons, namely: the material interest of ulama and the influence of modern western political notions. Mohammed Fadel, for example, in his study of the ulama’s position during the Arab Spring, maintains that it is still speculative to claim that the discourse of the like of ‘Alī Jum‘a, the former Egyptian *muftī*, who justifies the coup, is a result of an adherence to the classical discourse. What can be assured, he argues, is that the authoritarian Islam, represented by Jum‘a, is more concerned about preserving Islamic orthodoxy and the privileged status of al-Azhar as the only recognized religious authority rather than the democratization of the country.<sup>19</sup>

Unlike Fadel, David Warren contends that Jum‘a’s discourse to support the military coup against Mursī and extermination against members of Muslim Brotherhood in 2013 is highly influenced by the modern idea of nationhood and nation-state formulated by Rifā‘ah al-Ṭaḥṭāwī (d. 1873), an Egyptian Muslim scholar whose thought

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<sup>18</sup> Muhammad Qasim Zaman, *The Ulama in Contemporary Islam: Custodians of Change* (Princeton, N.J: Princeton University Press, 2007).

<sup>19</sup> Fadel, “Islamic Law and Constitution-Making,” 471–507.

heralding the beginning of Islamic reformation in Egypt. Warren contends that nationalistic discourse of Jum‘a neglects the traditional and pre-modern sensibility which emphasizes cosmic justice and instead shift toward embracing modern’s paradigm of progress and future of nation.<sup>20</sup>

This second framework adds a nuance to the first framework, which pays attention only to the classical facet of the discourse of contemporary ulama on usurpation of power. However, the shortcoming of this second framework is its propensity not to see the indebtedness of modern ulama’s discourse to the classical Islamic tradition. As a consequence, their views on the coup appear as if they are only modern discourses without historical roots. In other words, this view disregards the Islamic discursive tradition and overlooks the fact that the ulama have always relied on classical authority on their discourse of military coup.

After reviewing the existing study on the topic of dissertation, in the next section I delineate the definition of “Islam as discursive tradition” which I use in this research as a theoretical framework and how it can be a proper alternative theory in interpreting the ulama’s discourse of usurpation of power.

### *Theoretical Framework*

In the previous section, besides expounding the existing contentions regarding the issue of usurpation, I also explain some of the theoretical frameworks that scholars invoke to explain the discourse of ulama. Those frameworks, *inter alia*, are secularization, and epistemic replication, which denies any novelty in modern ulama’s discourse, and epistemic rupture, which emphasizes either an impact of material

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<sup>20</sup> Warren, “Cleansing the Nation,” 467-468.

interests or modernity's disruption to ulama's discourse and neglect their indebtedness to Islamic tradition.

To overcome the inherent shortcomings in those theories and approaches, I would present Talal Asad's anthropological concept of "Islam as a discursive tradition" as an alternative approach to examine the ulama's discourse of usurpation of power. Even though Asad's starting point is anthropology, his concept is applicable to the field of Islamic intellectual history or Islamic political thought in general.<sup>21</sup>

Traditional anthropological approaches in studying Islam emerged as an alternative to a philological approach which tends to essentialize Islam through studying classical texts. Therefore, unlike the so-called orientalist or Islamicists, anthropologists define Islam from daily life of its practitioners. Furthermore, they pay significant attention to the material condition that shapes Muslims' behaviors. That being said, despite its potentiality, there has been a number of critiques directed to this approach.<sup>22</sup> Talal Asad criticizes anthropological approaches to studying Islam prior to him for missing one essential feature of Islam, which is its typical reasoning based on the authority of the past. Realizing this shortcoming, Talal Asad proposes an alternative

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<sup>21</sup> A number of works have employed Asad's framework to analyze ulama's political discourse. Among them is Ovamir Anjum, *Politics, Law, and Community in Islamic Thought*; David H Warren, "Debating the Renewal of Islamic Jurisprudence (Tajdīd al-Fiqh) Yusuf al-Qaradawi, His Interlocutors, and the Articulation, Transmission and Reconstruction of the Fiqh Tradition in the Qatar-Context" (Ph.D. Dissertation, The University of Manchester (United Kingdom), 2015). Another study outside the boundary of Islamic political thought is Samira Haj, *Reconfiguring Islamic Tradition: Reform, Rationality, and Modernity* (Stanford University Press, 2008).

<sup>22</sup> One of the critiques to the anthropological approach to Islam suggests that this approach has suffered from a tendency of presentism. Anthropologists see only in its locality, making it isolated from its general framework. They fail to see a continuity of a local practice of Islam within Islamic discourse in general. This eventually makes a researcher unable to see the changes in Islam. Read Shahab Ahmed, *What Is Islam?*, 114. See also Ovamir Anjum, "Islam as a Discursive Tradition: Talal Asad and His Interlocutors," *Comparative Studies of South Asia, Africa and the Middle East* 27, no. 3 (2007): 656–672.

framework which is looking at Muslims' reasoning. He contends that any scholar working on Islam has to "...describe and analyze the kinds of reasoning, and the reasons for arguing that underlie Islamic traditional practices."<sup>23</sup> He further clarifies what he means by Islamic typical reasoning, which is a way of thinking "...that includes and relates itself to the founding texts of the Qur'an and the Hadith."<sup>24</sup>

Asad reminds researchers that Islam is a discursive tradition. By this, he means that tradition has a vital position in Islamic society. Unlike western society, which perceives tradition as darkness, immaturity, primitivity, fixed doctrines, and therefore back to it is a regression and atavism, Muslim societies perceive the past more optimistically.<sup>25</sup> They see the past as an ethical time (*al-zaman al-akhlāqī*) which is exemplary in terms of moral and epistemology.<sup>26</sup> Therefore, a discursive tradition for Muslims involves the activity of recalling a memory of the past and the transmitted discourse to deal with the present. Leonard Binder aptly describes this by stating: "History has a legislative character in Sunni Islam..."<sup>27</sup> Muslims refer to it as an attempt to find the legitimacy and authenticity of their behaviors and ideas.<sup>28</sup> As Asad suggests,

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<sup>23</sup> Talal Asad, "The Idea of an Anthropology of Islam," *Qui Parle* 17, no. 2 (2009): 23.

<sup>24</sup> Asad, "The Idea of an Anthropology of Islam," 20.

<sup>25</sup> It is worth noticing that Asad's positive approach to the notion of tradition is highly influenced by Alasdair MacIntyre, a philosopher of ethics. MacIntyre defines tradition as: "...an argument extended through time in which certain fundamental agreements are defined and redefined ...". MacIntyre, *Whose Justice? Which Rationality?*, 12.

<sup>26</sup> I borrow this terminology from Taha 'Abd al-Raḥmān, a contemporary ethic philosopher. See, Taha 'Abd al-Raḥmān, *Rūh al-Ḥadātha: al-Madkhal Ilā Ta'sīs al-Ḥadātha al-Islāmiyya* (Morocco: al-Markaz al-Thaqāfī al-'Arabī, 2006), 17; See also Wael B Hallaq, *Reforming Modernity: Ethics and the New Human in the Philosophy of Abdurrahman Taha* (New York Columbia University Press, 2019), 12.

<sup>27</sup> Leonard Binder, "Al-Ghazali's Theory of Islamic Government," *The Muslim World* 45, no. 3 (July 1955): 231.

<sup>28</sup> Anjum, "Islam as a Discursive Tradition," 656.



as a discursive tradition Islam does “instruct practitioners regarding the correct form and purpose of a given practice.”<sup>29</sup> The main preoccupation of this approach is a question of “(w)hat memories and models of the past should inform the disciplined life of a community in the present and the future?”<sup>30</sup>

Ulama, as a member of the community who are committed to tradition, seek to address their actual situation by finding a doctrinal inspiration from the past. In a more technical language, they refer to the tradition by referring to the standard view of a *madhhab* (school of thought) which has been existing in history.<sup>31</sup> In other words, ulama’s contentions and discourses have to be made within the frame that pre-modern *madhhabs* have provided. However, referring to the past authority in discursive tradition does not mean that ulama cannot alter established opinions within *madhhab*. Rather, they can use their agency as custodians of change to make a novel discourse. This is because they are responding to their contingency or material context. Attempts to respond to actualities which ulama encounter enable them to be creative in their political discourse.

Asad has reminded us that a tradition is not only about sticking with established opinions or mere replication of classical models. Tradition also includes an element of

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<sup>29</sup> Asad, “The Idea of an Anthropology of Islam,” 20.

<sup>30</sup> SherAli Tareen, *Defending Muhammad in Modernity* (Notre Dame, Indiana: University of Notre Dame Press, 2020), 12. This book also criticizes what Tareen calls “flagrant misreadings”, especially that of Shahab Ahmed, particularly when he misrepresents Asad’s theory in *What is Islam?*

<sup>31</sup> Junaid Quadri underlines the importance of *madhhab* to define tradition in his recent work. He stated: “In my view, it is through attention to the concept of the madhhab that we can most meaningfully delineate traditions, since the most defensible way of understanding what differentiates one madhhab from another, especially in their mature forms, is the expressly agreed-upon standards that define their discursive boundaries.” Junaid Quadri, *Transformations of Tradition: Islamic Law in Colonial Modernity* (New York: Oxford University Press, 2021), 14-15.

the future.<sup>32</sup> By this Asad means that a change of established discourse is possible in Islamic tradition. In other words, ulama, besides being committed to the past, are also open to change.<sup>33</sup> Tradition, therefore, is not an essential and fixed category as has always been claimed by the proponent of epistemic rupture theory, but rather a dynamic framework that encompasses an attempt to portray a coherence between the past and the future. Tradition can change and adapt to a new material context.

This is also exactly the strength of Asad's proposal. It provides a balanced analysis between looking at discourse and material context constituting it. It encourages us to pay attention not only to texts (discourse of scholars), but also what he calls "temporal situatedness" of that texts."<sup>34</sup> With regards to our issue at hand, this approach compels me to simultaneously examine commitment to standard opinion in the classical *madhhab* and the influence of actual socio-political context.

It is also noteworthy that although ulama are scholarly people who are committed to the historical tradition of Islam, they are not a single unified community. There are differences in orientation and even contestation among them to construct discourses. In other words, tradition as employed by ulama can experience split, bifurcation, mutation, and transformation. In Asad's account, "actual traditions, *descriptively so identified*, can disintegrate or implode."<sup>35</sup>

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<sup>32</sup> Asad, "The Idea of an Anthropology of Islam," 14; Anjum, *Politics, Law, and Community*, 661.

<sup>33</sup> Haj, *Reconfiguring Islamic Tradition*, 6.

<sup>34</sup> Talal Asad, *Genealogies of Religion: Discipline and Reasons of Power in Christianity and Islam* (Baltimore, Md.U.A.: Johns Hopkins Univ. Press, 1997), 201.

<sup>35</sup> Talal Asad, *Formations of the Secular: Christianity, Islam, Modernity* (Stanford: Stanford University Press, 2018), 220–21, see also Quadri, *Transformation of Tradition*, 16. To be more specific, to quote McIntyre's theoretical concept, tradition can experience a split because it has three evolutionary process, namely: first, the birth of authority in tradition in the form of text or belief; second,

These divergent rationalities about tradition in its modern form, according to Asad, will eventually compete each other for the claim of orthodoxy. As a consequence of this ramification, in other words, ulama will always condemn, exclude, and undermine each other.

To reiterate, possibility of change, openness to novelty, and probability of bifurcation are the main advantages of Asad's theoretical framework. These features contrasts diametrically with the Foucauldian framework of epistemic rupture.<sup>36</sup> In addition to inclining to find only the discontinuity of discourse, the latter also tends to essentialize the Islamic tradition by giving the impression that it has a reified and stable form. The epistemic rupture theory perceives tradition as a closed and undynamic entity. Consequently, any further development or shift from this fixed opinion is seen as a deviation.<sup>37</sup> Islam as a discursive tradition opposes this narrow definition of tradition.<sup>38</sup>

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awareness of certain inadequacies within tradition; and third, responses to those inadequacies by way of reformulations. MacIntyre, *Whose Justice*, 355

<sup>36</sup> Michel Foucault, *The Archeology of Knowledge*, trans. A.M. Sheridan Smith (New York: Pantheon Books, 1972), 166-177.

<sup>37</sup> Among the scholars who employ, at least implicitly, the epistemic rupture theory to read Islamic political thought are Oliver Roy, *The Failure of Political Islam* (Cambridge, MA: Harvard University Press, 1994); Bassam Tibi, *Islamism and Islam* (New Haven: Yale University Press, 2012); and Wael Hallaq, *The Impossible State*. The latest work that employs this framework, and thus, challenges the Asadian framework is that of Junaid Quadri's book. Challenging Asad's narrative of reformist scholars in the 20<sup>th</sup> century, he maintains: "I hold that the proper frame through which to understand the Reformism of 'Abduh and Riḍā is not as a movement internal to tradition, but rather as a movement away from tradition, if not an abandonment of it altogether". See, Junaid Quadri, *Transformation of Traditions*, 17.

<sup>38</sup> Asad affirmed his framework of tradition in his writing "Thinking about Tradition, Religion, and Politics in Egypt Today," *Critical Inquiry* 42, no. 1 (September 2015): 166–214.

### *Note on the Approach to Ulama's Discourse*

One significant question that may arise in the reader's mind is regarding the definition of ulama. I define ulama in this study by drawing on and elaborating Muhammad Qasim Zaman's account. In his book that studies contemporary ulama, Zaman defines them as those who have "the aspiration, effort, and ability to shape people's belief and practice on recognizably "religious" grounds".<sup>39</sup>

The above definition highlights a point that the so-called ulama must have an ability to influence masses. It also emphasizes the point of reference for them, which is the Islamic system of knowledge. I would go more specific by maintaining that what Zaman mentions as 'religious grounds' should be interpreted as Islamic intellectual tradition (*turāth*). Anyone can claim as speaking for the religious purposes, including rulers or politicians, but they are still not necessarily ulama. Therefore, I contend that ulama are a group of intellectuals or scholars who respond to their respective predicament by mobilizing normative and historical arguments from Islamic past. In another word, they are scholars who connect the foundational past (intellectual tradition) with the current reality to anticipate the future.<sup>40</sup>

Another thing to note is that in Islamic tradition, ulama are scholarly class who attain their status of authoritativeness not from rulers' recognition but rather from populace. They are considered as reliable because of their possession of knowledge of Quran, hadith, and tradition, and their pious attitude that embody characteristic of the

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<sup>39</sup> Qasim Zaman, *The Ulama in Contemporary Islam*, 29.

<sup>40</sup> The importance of tradition in ulama's discourse is something that almost all scholars of intellectual history would agree. See, for instance, Amr Osman, "Past Contradictions, Contemporary Dilemmas," 303–26. This contention stands in stark contrast with Ira Lapidus's statement that: "...it is striking how little influence the historical Islamic traditions have had on modern state formation. The Islamic heritage is no longer invoked, is largely ignored, and is sometimes expressly repudiate." See, Lapidus, "The Golden Age," 21.

prophet. In the pre-modern period, the so-called ulama were literally civic leaders.<sup>41</sup> They acted as jurists, judges, professors, managers of community's endowment, and more importantly an advisor of society for their daily affairs.<sup>42</sup> They acted as balancing forces for rulers in governing society. It could be said that to some extent they were even more influential than rulers themselves.<sup>43</sup> While rulers lived in a palace separated from society they oversee, ulama lived together with and part of society itself. Moreover, rulers must submit to the Islamic law that ulama formulated.<sup>44</sup> They discovered contents of rulings and systematized them without any intervention from rulers.<sup>45</sup> In other words, social norms that apply in society were product of intellectual work of ulama.

In many cases, to gain legitimacy of his power, a ruler must also acquire recognition from ulama. They were the ones who occupied the position of *ahl al-ḥall wa al-ʿaql* (people who loose and bind) who authorized a leadership of a ruler. In time of conflict between two candidates fighting for power, they were also one of the factors that could determine which of those in quarrel is legitimate. Feldman writes: “[t]he scholars could harm the ruler by keeping quiet, or by affirming his legitimacy in tepid terms. In a more extreme case, the scholars could affirm the legitimacy of an alternative claimant.”<sup>46</sup>

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<sup>41</sup> Wael B. Hallaq, *Shariʿa: Theory, Practice, Transformations* (Cambridge, UK; New York: Cambridge University Press, 2012), 130.

<sup>42</sup> Wael B. Hallaq, *The Impossible State: Islam, Politics, and Modernity's Moral Predicament* (New York: Columbia University Press, 2014), 53.

<sup>43</sup> Patricia Crone and Martin Hinds, *God's Caliph*, 93.

<sup>44</sup> Ira Lapidus proposes the opposite understanding which is the idea that it is caliph who is more influential in society. He states: “Caliphs personified Islam. ...The Caliph was the very person of the *umma*.” Ira M. Lapidus, “The Separation of State and Religion in the Development of Early Islamic Society,” *International Journal of Middle East Studies* 6, no. 4 (October 1975): 364. Ovamir Anjum has responded to this thesis in his book *Politics, Law and Reason in Islamic Thought*, 44-48.

<sup>45</sup> Abou El Fadl, *Rebellion and Violence*, 94-95; Hallaq, *Shariʿa*, 125-135.

<sup>46</sup> Feldman, *The Fall and Rise of the Islamic State*, 34.

It is a given fact that in modern times, ulama's position and influence have been declining. They no longer have a monopoly over legal content as well as its application among society. Their position has been replaced by institution of a state through their apparatus of modern lawyers whose orientation is importing western legal system instead of traditional Sharia.<sup>47</sup> However, despite this degradation, the voice of ulama still have a significant impact and shape people's mind.<sup>48</sup> In many cases, a modern state still needs them to give legitimacy to its policies.<sup>49</sup> Thus, scholars' acceptance or rejection of a claim of legitimacy of a certain ruler continue to affect an empirical political landscape.

The various reasons mentioned above explain why ulama's discourses are significant to study and analyze. In addition to that, examining the discourses of ulama and the role of tradition (both legal and theological) in shaping Islamic political thought in this research is part of what I call a decolonization move. It seeks to decenter the hegemony of liberal values within academia. Weberian liberal and secular paradigm, in particular, tend to dismiss the role of tradition. Modern society is considered by this paradigm as getting more secular. The world, according to this view, is entering the disenchantment phase.<sup>50</sup> Based on its logic, secularization is an inevitability of modernity, which eventually leads to the loss of the role of religion in politics. Therefore,

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<sup>47</sup> Hallaq, *Shari'a*, 443-499. For the specific case of Egypt, see Farhat J Ziadeh, *Lawyers, the Rule of Law and Liberalism in Modern Egypt* (Stanford, Calif.: Hoover Institution on War, Revolution and Peace. Stanford University, 1968), 3-61.

<sup>48</sup> Meir Hatina, *'Ulama', Politics, and the Public Sphere: An Egyptian Perspective* (Salt Lake City: University of Utah Press, 2010), 28-39.

<sup>49</sup> Zeghal, "Religion and Politics in Egypt", 371-376; Fiona McCallum, "Religious Institutions and Authoritarian States: Church-State Relations in the Middle East," *Third World Quarterly* 33, no. 1 (February 2012): 109-24; Masooda Bano, "At the Tipping Point? Al-Azhar's Growing Crisis of Moral Authority," *International Journal of Middle East Studies* 50, no. 4 (November 2018): 715-34; Masooda Bano and Hanane Benadi, "Regulating Religious Authority for Political Gains: Al-Sisi's Manipulation of Al-Azhar in Egypt," *Third World Quarterly* 39, no. 8 (September 8, 2017): 1604-21.

<sup>50</sup> Max Weber, *The Vocation Lectures* (Indianapolis: Hackett Pub, 2004), 30.

one does not need to look at theological structure and intellectual tradition from the past to study political thought of modern society.<sup>51</sup> Some Western historians even invoke this secularization paradigm anachronistically to read Islamic premodern history as I have showed in literature review. Following Talal Asad, in this research, I argue that to read Islamic political thought, one cannot ignore traditional lens.<sup>52</sup>

After clarifying who and why I approach the discourse of ulama on usurpation of power, in the next section, I summarize some of the central issues in the Islamic political thought that serves as a basis to understand the issue at hand. In Islamic intellectual tradition, the issue of usurpation of power is a small part of a larger field which can be called “imamate discourse” or “caliphate discourse”. Therefore, it is imperative to start the examination of the topic of usurpation with the discussion of *imāma* itself.

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<sup>51</sup> Facundo Vega juxtaposes the views of four prominent European thinkers, namely Max Weber, Leo Strauss, Carl Schmitt, and Hannah Arendt on the issue of political theology or the question of to what extent religious tradition is important to understand politics. See, Facundo Vega, “On the Tragedy of the Modern Condition: The ‘Theologico-Political Problem’ in Carl Schmitt, Leo Strauss, and Hannah Arendt,” *The European Legacy* 22, no. 6 (June 14, 2017): 697–728.

<sup>52</sup> It is noteworthy that this paradigm resonates with the thought of Carl Schmitt, a German political theorist. He contends that modern theory of state can only be understood properly by looking at theology. He suggests that the concept of state is “secularized theological concepts”. Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty* (Chicago: University of Chicago Press, 2005), 36. Nevertheless, Schmitt is also a proponent of secularization of political ideas, following his mentor, Max Weber. Leo Strauss, a modern Jewish philosopher, maintains the same idea. In his analysis of crisis of western civilization, he advocates the need of returning to the past instead of progressing to the future, to understand current political problem. Leo Strauss, *The Rebirth of Classical Political Rationalism: An Introduction to the Thought of Leo Strauss*. (Chicago and London: University of Chicago Press, 1989), 227-270.

### *Imamate Discourse in Islamic Tradition*

The topic of imamate or caliphate (rulership) occupied a very central position in Islamic history and theology.<sup>53</sup> Al-Qalqashandī (d. 821/1418), a Cairene medieval political thinker, aptly and poetically summarizes it:

“Caliphate is Islam’s barn, its circumference of a circle, horseblock of its people, and seedbed of its society, through which religion is maintained and protected, the boundary of Islam is defended, and the external raid gets crippled. Also, through caliphate criminal punishment is upheld which eventually prevent infringement of forbidden things. Also, through caliphate, human’s sexual desire is controlled which can avert promiscuity...”<sup>54</sup>

Despite its centrality in history and theology, however, caliphate is also a center of conflicts among Muslim rulers and a contended issue among scholars. It was the first topic that caused the dispute among the prophet’s companions right after his death which resulted in deferment of his burial.<sup>55</sup> As al-Shahrastānī (d. 548/1153), a medieval Persian theologian and historian, has written: “the greatest dispute among Muslims has been around the issue of imamate. There has been no bloodshed greater taking place among Muslims except the one ensuing because of the debate around the imamate.”<sup>56</sup>

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<sup>53</sup> The term imamate (*imāma*) has been used in Arabic to refer to both leadership and matters related to leading prayers. Therefore, to classify it as a political term, some scholars use the phrase *al-imāma al-‘uzma* which means the greatest leadership. This term carries the same meaning as caliphate (*khilāfa*). See ‘Abd Allāh ibn ‘Umar ibn Sulaymān al-Dumayjī, *al-Imāma al-‘Uzmā ‘inda Ahl al-Sunna wa al-Jamā‘a: min Qaḍāyā al-Fikr al-Siyāsī al-Islāmī fī Ḍaw’ ‘Aqīda Ahl al-Sunna wa al-Jamā‘a* (Riyāḍ: Dār Ṭayyiba, 1404/1987), 36. “Imamate discourse” in this study means any discourse pertaining to political rulership that revolves around a figure of *imām* (leader).

<sup>54</sup> Abū al-‘Abbās al-Qalqashandī, *Ma‘āthir al-‘Ināfa fī Ma‘rifa al-Khilāfa*, edited by ‘Abd al-Sattār Aḥmad Farāj, (Beirut: ‘Ālam al-Kutub, n.d.), 2.

<sup>55</sup> Abū Ḥasan ‘Alī ibn Ismā‘īl al-Ash‘arī, *Maqālāt al-Islāmīyyīn wa Ikhtilāf al-Mušallīn*, ed. Muḥammad Muḥyi al-Dīn ‘Abd al-Ḥamīd (Beirut: al-Maktaba al-‘Aṣriyya, 1990), 39.

<sup>56</sup> Muḥammad ibn ‘Abd al-Karīm al-Shahrastānī, *Al-Milal wa al-Niḥal*, ed. Aḥmad Fahmī Muḥammad (Lebanon: Dār al-Kutub al-‘Ilmiyyah, 1992), 13.



The Muslim scholars discuss imamate and issues surrounding it in at least two different ways.<sup>57</sup> First, they address this topic in a theological (*kalām*) treatise along with other foundational topics, such as the existence and the attributes of God. For instance, after explaining the evidence of the existence of God and His attributes, al-Ghazālī (505/1111), a famous medieval scholar, discusses the issue of imamate in his book of theology *al-Iqtisād fī al-ʿItiqād*.<sup>58</sup> Not only as a chapter, but scholars also wrote a specific book to examine the imamate from a theological point of view.<sup>59</sup> Second, the ulama treat the imamate discourse as a legal question as well. This treatment allows them to elaborate on more complex and practical issues as opposed to merely discussing the more fundamental topics as in the *kalām* books. Jurists, for instance, discuss in a lengthy way the institution of *wizāra* (ministry), *imāra* (governorship), *al-qaḍāʾ* (judiciary), the questions of *jizya* (tribute), *kharrāj* (tax), and other legal issues.<sup>60</sup>

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<sup>57</sup> Other than these two categories, there are other types of books which deal with the issue of politics which I consider out of imamate discourse. They are: first, the treatises that western scholars call “Mirror of Princess” (Arabic: *Mirāyā al-Umarā*, Germany: *fürstenspiegel*) which contains advice (*naṣiḥa*) to rulers; second, philosophical books which discuss political problems from a philosophical point of view. Therefore, political discourse is not necessarily an imamate discourse. The latter is more specific as it is related to a figure of *imām*, whereas the first is more general as it deals with the issue of governing a society in general. Another difference is the fact that imamate discourse is Islamic in origin whereas two others are strongly influenced by Persian and Hellenistic tradition. For further explanation regarding types of references of pre-modern Islamic political thought, read Riḍwān al-Sayyid, “al-Fikru al-Siyāsī al-Islāmī: Madārisu Wa Ittijāhu,” accessed March 21, 2020,

<http://ridwanalsayyid.com/cms/assets/pdf/2994d2930ffc4f3a9aaa1e8d2e1d804a.pdf>.

<sup>58</sup> Muḥammad Abū Ḥāmid al-Ghazālī, *al-Iqtisād fī al-ʿItiqād*, edited by Inṣāf Ramaḍān (Damaskus, Beirut: Dār Qutaiba, 2003), 169-174.

<sup>59</sup> Among the scholars who wrote a specific book from *kalām* perspective is an Imāmiyya scholar, al-Sharīf al-Murtaḍā (d. 436/1044), in his book *al-Shāfi fī al-Imāma*, ed. al-Sayyid Muḥammad al-Zahrāʾ al-Ḥusainī al-Khaṭīb (Teheran: Muassasa al-Ṣādiq li al-Ṭibāʾa wa al-Nashr, 1986).

<sup>60</sup> Some examples of legal books that specifically deal with these issues are: Abū al-Ḥasan ʿAlī al-Māwardī, *al-Aḥkām al-Sulṭāniyya wa al-Wilāyata al-Dīniyya*, ed. Aḥmad Mubārak al-Baghdādī (Kuwait: Maktabah Dār ibn Qutaiba, 1989); Abū Yaʿla

The imamate discourse, whether in the theological or legal field, encompasses a vast range of topics. Delineating all of them is beyond the concern of this introduction. What I want to do in the following paragraphs is to briefly delineate some of the primary issues that have become a major concern of ulama.

The first issue discussed and debated by ulama in the imamate discourse is regarding the necessity of an *imām*. In this regard, the majority of the classical Islamic theological groups, namely Ash‘ariyya, Ahl al-Ḥadīth, Shī‘a, Mu‘tazila, Khawārij, and Murji‘a, agreed on a view that choosing an *imām* is obligatory, even though afterwards they disagree whether it is based on revelation or reason. In any case, they view an *imām* as indispensable. Al-Ghazālī, who is Shāfi‘ī legally and Ash‘arī theologically, even maintains that validity of Muslim transactions, such as marriage, court’s verdicts, depend on the existence of an *imām*. If he is absent, then all those matters are considered void.<sup>61</sup> Out of the whole classical *kalām* tradition, only a sub-group of Khawārij called al-Najdāt, and figures such as al-Aṣamm and Hishām al-Fuwaṭī from Mu‘tazila dissented from this consensus.<sup>62</sup>

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Muḥammad ibn al-Ḥusain al-Farra’, *al-Aḥkām al-Sulṭāniyya*, ed. Muḥammad Ḥāmid al-Faqā (Beirut: Dār al-Kutub al-‘Ilmiyya, 2000); Badr al-Dīn Ibn Jamā‘a, *Taḥrīr Al-Aḥkām fī Tadbīr al-Islām*, ed. Fuād ‘Abd al-Mun‘im Aḥmad (Qatar: Ri‘āsaḥ al-Maḥakim al-Shar‘iyya wa al-Shu‘ūn al-Dīniyya, 1985).

<sup>61</sup> al-Ghazālī, *al-Iqtisād fī al-‘Iṭiqād*, 171. For further information about the necessity of an *imām*, read al-Ash‘arī, *Maqālatu al-Islāmiyyīn*, II, 149; al-Dumayjī, *al-Imāma al-‘Uzmā*, 70.

<sup>62</sup> Al-Aṣamm, in particular, maintains that if people restrain themselves from doing injustice against others, an *imām* is no longer needed. Al-Qāḍī ‘Abd al-Jabbār sought to rationalize his fellow Mu‘tazila scholar’s view. He opines that the literal statement of al-Aṣamm above implies the opposite: the indispensability of *imām*. This is given the fact that it is impossible for people to restrain themselves without a ruler imposing rules. Also, al-Aṣamm accepted the authority of *ijma‘* (scholarly consensus) which is what exactly other scholars claim about imamate. Read, al-Qāḍī Abī al-Husain ‘Abd al-Jabbār, *al-Mughnī fī Abwāb al-Tawhīd wa al-‘Adl* (Cairo: al-Dār al-Misriyya li al-Ta‘līf wa al-Tarjama, n. d.), appendix to vol. XX, part one, 47-8.

The second topic, and the most central one, is the question of who an *imām* or a successor of the prophet is. This question is highly related to the next topic which is about the nature of rulership. Two views appeared in this regard. Imamate is considered as one of the foundational beliefs or an article of faith by Shī‘a, but only as a matter of *ijtihād* (reasoning) by Sunnī. In other words, according to Shī‘a, the rulership of *Imām* ‘Alī is certain and guaranteed by *naṣṣ* (revelation). In contrast, for the Sunnī, God has left this matter for Muslims to carry out through *ikhtiyār* (election) and *shūrā* (consultation) among them. It is neither revealed for ‘Alī nor other companions, but Muslims have to decide by themselves. That being said, even though the Sunnī scholars believe that the appointment of an *imām* is out of revelation concern, they do not detach rulership from religion. Therefore, there is no way one can say that the discourse of *imāma* is equal with secularism in the modern western world, where politics and religion has been separated.<sup>63</sup> By contrast, rulership is considered as contingent upon religion. This intricacy can be seen in the fact of how most of the pre-modern political theorists deem imamate as a succession of the prophethood in guarding of religious matters and managing worldly affairs.<sup>64</sup>

Another topic that became a central discussion in imamate discourse is the question of qualifications of an *imām*. Shī‘a believe that an *imām* must be from *ahl al-bayt* or the descendant of the prophet. Furthermore, they must be infallible. Other groups hold a view that it is not necessary. The majority of scholars of Sunni and the later generation of Mu‘tazila believe that they have to be from the tribe of Quraish. The

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<sup>63</sup> As I explicate in the literature review section, the secularization thesis is quite common in reading Islamic political thought especially among orientalist generation.

<sup>64</sup> Al-Māwardī, for instance, maintains: “*al-imāma mauḍū‘a lī khilāfa al-nubuwwa fī ḥirāsa al-dīn wa siyāsa al-dunyā bih* (imamate is upheld to continue the rulership of prophethood in managing religious and worldly affairs).” See, al-Māwardī, *al-Aḥkām al-Sulṭāniyya*, 3.

early Mu‘tazila scholars, such as Ḍarār ibn ‘Amrū, along with Khawārij, and a few figures from Sunni such as al-Juwaynī, rejected this lineage requirement and maintained that an *imām* could be anyone, even outside of the Quraish tribe.<sup>65</sup> Najm al-Dīn al-Ṭarsūsī (d. 758/1357) and al-Kamāl ibn al-Humām (861/1457), two Hanafī scholars living in the time of the Mamluks, claimed that in their *madhhab*, in a situation of necessity (*ḍarūra*), being a Quraish descendant is not necessary.<sup>66</sup> In addition to lineage, ulama also require an *imām* to have probity and physical and intellectual capacity.

The next topic is the means whereby an *imām* is established in his office (*tawliya al-imām*). Shi‘a maintain that the only legitimate way to acquire a right to rule is from a *waṣīyya* (testament) from the prophet which descended upon Imām ‘Alī and his progeny. In the Sunnī scholarship, there are two official ways to select an *imām*, namely: through an election (*al-ikhtiyār*) by *ahl al-ḥall wa al-‘aqd* (people who loose and bind) and a testamentary designation (*al-istikhlāf*) from a previous *imām*. Both means must be formalized by an oath of allegiance (*bay‘a*) of *ahl al-ḥall wa al-‘aqd*. The significant

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<sup>65</sup> Given the extinction of the early Mu‘tazila’s writings, this view is obtained from the secondary sources. Read, al-Ash‘arī, *Maqālātu al-Islāmiyyīn*, II: 151; al-Shahrastānī, *al-Milal wa al-Niḥal*, 79; Muḥammad ‘Imāra, *al-Islām wa Falsafa al-Ḥukm* (Cairo: Dār al-Shurūq, 2009), 394. With regard to al-Juwaynī, look at Abū Ma‘ālī ‘Abd al-Mālīk al-Juwaynī, *Ghiyāth al-Umam fī Tiyāth al-Zulam*, ed. Muṣṭafā Ḥilmī and Fuād ‘Abd al-Mun‘im (Alexandria: Dār al-Da‘wa, n.d.), 63.

<sup>66</sup> Najm al-Dīn Ibrāhīm ibn ‘Alī al-Ṭarsūsī, *Tuḥfa al-Turk fīmā Yajib ‘an Yu‘mala fī al-Mulk*, ed. Riḍwān al-Sayyid (Beirut: Ibn Azraq Center for Political Heritage Studies, 2012), 68, 70-71; al-Kamāl ibn Abī Sharīf ibn al-Humām and Qasim ibn Quṭlubughā al-Ḥanafī, *al-Musāmara fī Sharḥ al-Musāyara fī ‘Ilm al-Kalām* (Cairo: al-Maktabah al-Azhariyya li al-Turāth, 2006), I: 168. This view will become mainstream in the Ḥanafī school, especially after the sultan of the Ottoman Salim II claimed to be both *sulṭān* and caliph. *Sulṭān* and *khalīfa* or *imām* are considered synonymous terms and can be used interchangeably. A scholar named Luṭfī Pasha (d. 970/1562) from the Ottoman period wrote an article entitled *Khalāṣ al-Umma fī Ma‘rifa al-‘Imma* to explicate the synonymity between sultan and caliph in Hanafi school. See Hamilton Alexander Rosskeen Gibb, “Luṭfī Paṣa on the Ottoman Caliphate,” *Oriens* 15, no. 1 (January 18, 1962): 287–95; Mona Hassan, *Longing for the Lost Caliphate: A Transregional History*. (Princeton, New Jersey: Princeton University Press, 2018), 120-3.

issue in this topic is regarding number of electors. Some scholars require at least forty electors, others require five. Some, such as al-Ghazālī and al-Ījī, even accepted the existence of only a single elector.<sup>67</sup> In the post-classical period, in the Sunnī tradition, as I delineate in chapter 3, the usurpation of power is accepted as the third mean to establish an *imām* by many scholars. Starting from this period onward, usurpation is no longer considered as accidental, but as one of the standard ways to acquire rulership.

The next issue is regarding multiplicity of *imāms* at a given time. Three stances have emerged among classical Muslim scholars pertaining to this question.<sup>68</sup> The first is the majority opinion of ulama that denies this option. The second is those who accept the existence of more than one *imām* as long as their claim of caliphate is made far away from an existing caliph's position. Among the scholars from this category are al-Baghdādī and al-Juwaynī.<sup>69</sup> The third is those who accept multiple *imāms* without any condition. Al-Jāhiz al-Mu'tazilī is among the scholar of this group.<sup>70</sup>

The final issue is deposition of an *imām*. Ulama discuss two sub-issues regarding this topic, namely conditions that allow this action against an *imām* to take place, and a means to undertake it. In general, four legitimate factors allow overthrowing rulers. First, an *imām* can be impeached if he leaves Islam. All of the theological and legal schools agreed over the condition that an *imām* must be a Muslim. Second, *imām* can be deposed if he becomes morally corrupt and heretic. Third, if an *imām* lost his capacity,

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<sup>67</sup> Al-Qalqashandī narrated eight opinions regarding this topic. See *Ma'āthir al-'Ināfa*, 42-44.

<sup>68</sup> Al-Dumayjī, *al-Imāma al-'Uzma*, 554.

<sup>69</sup> 'Abd al-Qāhir al-Baghdādī, *Kitāb Uṣūl al-Dīn* (Istanbul: Maṭba'ā al-Daula, 1928), 274; al-Juwaynī even claimed this is also the position of al-Ash'arī. See, *Ghiyāth al-Umam*, 128-9.

<sup>70</sup> 'Amrū ibn Baḥr al-Jāhiz, *Rasā'il al-Jāhiz*, ed. Abd al-Salām Harūn (Cairo: Maktaba al-Khānājī, 1964), IV: 285-9.

such as loss of intellectuality or becomes physically disabled, he is also deposable. Fourth, if an *imām* becomes imprisoned by an enemy, *ahl al-ḥall wa al-‘aqd* can also replace him with another *imām*.<sup>71</sup> While the first condition is agreed upon among ulama, there is a disagreement over the last three conditions. It is worth mentioning that the subject of usurpation of power is connected to the question of deposition of *imām* as well. The relation between both is between specific and general. Usurpation is one among other ways to ouster an *imām*. Usurpation is an act by a holder of force (*dhū al-shawka*), whereas other means that are legitimate exclusively belong to *ahl al-ḥall wa al-‘aqd* (people who loose and bind).<sup>72</sup>

Those issues as mentioned earlier are the core topics which imamate theorists addressed and debated in the pre-modern Islamic scholarship. Alluding them here is essential to provide information about the general context related to a usurpation of power. Those topics, particularly methods of establishing and deposition of an *imām*, will appear recurrently throughout this dissertation. To properly understand ulama’s discourse on usurpation I also look at their opinions on these two issues.

The next chapter will explain the emergence and development of the ulama’s discourse on usurpation of power in the pre-modern period.

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<sup>71</sup> Al-Māwardī, *al-Aḥkām al-Sulṭāniyya*, 24-29; al-Qalqashandī, *Ma‘āthir al-Ināfa*, 64-74.

<sup>72</sup> As Patricia Crone notes that even though the issue of deposition of ruler is omnipresent in every book of imamate, ulama do not specify the mechanism to undertake it. See Patricia Crone, *God’s Rule*, 231.

## CHAPTER THREE

### THE PRE-MODERN ULAMA'S DISCOURSES ON USURPATION OF POWER

“...kingship results only from a usurpation of power...” (Ibn Khaldūn)<sup>1</sup>

“(The rulers) maintain their hold over the government and their own dynasty with the help, then, either of clients and followers who grew up in the shadow and power of solidarity, or (with that) of tribal groups of a different descent who have become their clients.” (Ibn Khaldūn)<sup>2</sup>

#### *Introduction*

This chapter examines the evolution of discourses of pre-modern ulama, both jurists and theologians, on the usurpation of power. The specific questions that guide this chapter are: 1) How did the discourses of ulama emerge and develop over time in the pre-modern period; 2) How did social and political events and an existing intellectual tradition shape the discourses of ulama? 3) Why did the ulama's views in the post-classical period tend to merge and synchronize at a particular stance?

I divide the discussion in this chapter into three parts following chronological orders. The first part explains the formation of discourses from the second/eighth until the third/ninth century. Here I expound the positions of the eponyms of the four legal

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<sup>1</sup> “...*al-mulk innamā yaḥṣul bi al-taghallub...*”. Ibn Khaldūn, *al-Muqaddima*, I: 313.

<sup>2</sup> “*Wa yakūn istizhāruhum ḥīna 'idhin 'alā sulṭānihim wa daulatihim al-makhṣūṣa immā bi al-mawālī wa al-muṣṭani 'in alladhīna nasha 'ū fī ḥill al-aṣabiyya wa ghairihā wa immā bi al-'aṣāib al-khārijīna 'an nasabihā al-dākhilīna fī wilāyatihā.*” Ibn Khaldūn, *al-Muqaddima*, I: 309.

schools and the early Mu‘tazila theologians. The second part presents the systematization of discourses in the fourth/tenth until the fifth/eleventh century. The discourse of the following scholars become focus of my explanation: al-Ḥalīmī, al-Qāḍī ‘Abd al-Jabbār, al-Māwardī, and al-Juwaynī. The third part expounds the crystallization of discourses at a certain tendency in the sixth until the ninth (the thirteenth until fifteenth) century. In this part, I unpack the views of Ibn Qudāma, Ibn Jamā‘a, and al-Kamāl ibn al-Humām. I then discuss why the discourses of ulama, having been diverse for several centuries, tend to synchronize at a particular juncture.

Before expounding the ulama’s discourses, I describe a general context that shapes their position in each part.

My central thesis is as follows. The Islamic discursive tradition formulated by earlier generations becomes the foundation and framework upon which the latter ulama formulate their discourses. Each generation attempt to ensure the continuity of their discourse with that of their predecessor while also take consideration into their own material context. The ubiquity of usurpations in history from the early until the Mamlūk’s period significantly inform the discourse of ulama. Eventually, the advent of the regime of legal inertia (*taqlīd*) would later cement and standardize the latest development of discourse into a dogma or agreed-upon norm. Usurpation became one of the recognized methods after testamentary designation and election to establish imamate.

### *The Formation of Discourse*

The discourse of usurpation of power (*taghallub*) already emerged among the earliest generation of Muslim community (*umma*). Scholars from the period of the Prophet’s companions took a stance regarding the legitimacy of the act of usurpation



happening in their time and the question who is on the right side among those in conflict. However, tracing the companions' political stance on the usurpation of power is hard to conduct since we suffer from the lack of primary resources. Even with the presence of such references, one needs to be careful in accepting reports about political issues in Islam's first century. Those reports were conveyed by reporters in the next century during the political tensions among various factions.<sup>3</sup> In other words, there is an issue of political biases in those reports at stake here.

I begin this chapter by examining the ulama's stances living in the second/eighth century on the various critical political tragedies. Again, to point out the second century of Islamic calendar as the starting point does not mean that the previous periods' discourses do not exist. The reason to begin from this period is as follows: first, this is the period when schools of legal thought and theology emerged. Therefore, starting from this period means discussing the discourses of eponyms. Second, the references explaining the discourses of this era's figures are relatively present.

### The Earliest Materialization of Usurpation of Power

In this section, I briefly summarize the four acts of usurpation of power in the first/seventh century, which constitute the raw materials and contribute to the rise of the ulama discourse on usurpation. Those even are:

1. the usurpation of power from 'Alī by Mu'āwiya,
2. the usurpation of power from 'Abd Allāh ibn Zubayr by 'Abd al-Mālik ibn Marwān,

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<sup>3</sup> Riḍwān al-Sayyid mentions this issue when he talks about the history of the concept of legitimacy (*shar'iyā*), unity (*waḥda*), and community (*jamā'a*). He argues that to accept reports from a certain source, one needs to corroborate them with another source. Riḍwān al-Sayyid, *al-Umma wa al-Sulṭa wa al-Jamā'a*, 135-6. Such a task is beyond this work.

3. the usurpation from al-Nafs al-Zakiyya, who claimed as having an oath of allegiance (*bay'at*) and mandate from the public, by Abū al-‘Abbās and Abū Ja‘far al-Manṣūr (the two founders of the Abbasids),
4. the usurpation from the Umayyads by the Abbasids.

One caveat to mention here is that my narrative of the events is neither comprehensive nor exhaustive. This is because my primary focus is only to illustrate how these political circumstances in the early period of Islam inform the ulama’s discourses.

Out of the four political events, the rise of Mu‘āwiya as the caliph after the stepping down of Ḥasan preceded by the murder of ‘Alī is the most important material that contributes to the emergence of ulama’s discourse on the usurpation of power. The early ulama living in the 2<sup>nd</sup>/8<sup>th</sup> century and the modern ones living in the 13<sup>th</sup>/20<sup>th</sup> century refer to this historical fragment as the early manifestation of how a usurper had seized a legitimate political authority.

After the murder of ‘Uthmān ibn ‘Affān, a third caliph, tension occurred between ‘Alī as an *amīr al-mu‘minīn* (commander of believers) and Mu‘āwiya, the governor of Syria, who shares the family lineage with ‘Uthmān as the members of the Umayyad tribe. The tension ended up with the Battle of Ṣiffīn that took place in 37/657. There is a number of interpretations behind the hostility of Mu‘āwiya to ‘Alī.<sup>4</sup> One version believes that Mu‘āwiya considered ‘Alī as having abandoned a *shūrā* (consultation) to ascend to his office as a caliph.<sup>5</sup> Another account mentions that Mu‘āwiya was protesting ‘Alī

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<sup>4</sup> Aaron M. Hagler in his dissertation argues that the interpretation of Muslim scholars regarding the conflict between ‘Alī and Mu‘āwiya particularly during the battle of Ṣiffīn evolved over periods both among Sunni and Shī‘a scholarship. See, Aaron M. Hagler, “The Echoes of Fitna: Developing Historiographical Interpretations of the Battle of Siffin” (Ph.D. Dissertation, 2011), <https://repository.upenn.edu/edissertations/397/>.

<sup>5</sup> This opinion emerges from al-Sāliḥ bin al-Kaysān (d. 141/ 758), a historian living in Madina during the Umayyads period. Erling Ladewig Petersen, *‘Alī and Mu‘āwiya in Early Arabic Tradition* (Odense: Odense University Press, 1974), 35;

because the latter had a plan to remove the first from his position as a governor.<sup>6</sup> Still, another version maintains that Mu‘āwiya regarded ‘Alī as an accomplice to the murderer of ‘Uthmān.<sup>7</sup> The most popular point of view is an assumption that Mu‘āwiya demanded an investigation of the murder of ‘Uthmān.<sup>8</sup> This moderate account is the opinion of the majority of Sunni Muslims nowadays. This perspective emerges in Islamic intellectual history to compromise and embrace the virtues of both ‘Alī and Mu‘āwiya as the Prophet's companions.

After battling each other for a few days, both sides agree to bring the conflict into arbitration (*taḥkīm*).<sup>9</sup> Yet, Sunni historians disagree on the motive of the arbitration. Some scholars believe it is a trick of Mu‘āwiya to oust ‘Alī from his position as a ruler.

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Jamāl F. El-‘Aṭṭar, “The Political Thought of al-Jāḥiẓ, with Special Reference to the Question of Khilāfa (Imāmate): A Chronological Approach” (Ph.D. Dissertation, 1996), 264-5, <https://ethos.bl.uk/OrderDetails.do?uin=uk.bl.ethos.520751>.

<sup>6</sup> This account was formulated by Hishām al-Kalbī (d. 204/819), a historian living in the Abbasid period. See, Al-‘Aṭṭar, 268.

<sup>7</sup> This interpretation also originates from al-Sāliḥ ibn al-Kaysān as well as al-Sha‘bī (104/725), a historian from Kufah. See, Peterson, *‘Alī and Mu‘awiyah*, 38.

<sup>8</sup> ‘Alī al-Ṣallābī, a contemporary historian, quotes a statement of some medieval scholars like al-Nawawī dan Ibn Taymiyya to support this account. See, ‘Alī Muḥammad al-Ṣallābī, *al-Dawla al-Umawiyya: ‘Awāmil al-Izdihār wa Tadā‘iyyāt al-Inhiyār* (Beirut: Dār al-Ma‘ārif, 2008), I: 99-100. This perspective comes in conjunction with the famous maxim in the hadith science that *kullu ṣaḥāba ‘udūl* (all of the Prophet's companions are upright). This middle position becomes a mainstream view thanks to traditionists like Aḥmad ibn Ḥanbal.

<sup>9</sup> Another version maintains that the idea of arbitration comes from Mu‘āwiya who finally deceived ‘Alī into stepping down from his position as a ruler. This version continues that through both the umpire of ‘Alī and Mu‘āwiya, namely Abū Ḥasan al-Ash‘arī and ‘Amrū bin al-‘Āṣ, ‘Alī was declared as deposed caliph. For the details of the event, see Abū Ja‘far Muḥammad ibn Jarīr al-al-Ṭabarī, *Tārīkh al-Rusul wa al-Mulūk* (Cairo: Dār al-Ma‘ārif, n.d.), V: 67-71; Ibn Kathīr, *al-Bidāya wa al-Nihāya*, VII: 276-8, 282-5. However, some critics doubt the validity of this report. It is said that the source of the story is Abū Mikhnaf, who has been considered as unreliable by hadith scholars. See, Yaḥyā ibn Ibrāhīm ‘Alī al-Yaḥyā, *Marwiyyāt Abī Mikhnaf fī Tārīkh al-Ṭabarī*, *‘Aṣr al-Khilāfa al-Rāshida, Dirāsa Naqdiyya* (Riyādh: Dār al-‘Āṣima, n.d.), 43-6.

Others believe that Mu‘āwiya and ‘Alī wanted to reach an agreement regarding the murder of ‘Uthmān.<sup>10</sup>

In 40/661, three years after the arbitration, ‘Alī was assassinated by a group called Khawārij, who, before the arbitration, used to be his supporters. Afterward, people of Kufah, the area where influence of ‘Alī was concentrated, agreed to appoint Ḥasan, the son of ‘Alī, to be the successor.<sup>11</sup> All scholars agreed on the legitimacy of Ḥasan’s reign. This rulership, however, only lasted for six months. In the Sunni historical account, Ḥasan was told as abdicating the rulership to Mu‘āwiya.<sup>12</sup> People gave their pledge of allegiance to him as a caliph in 41/662, a year he named as a year of unity (*‘ām al-jamā‘a*). Mu‘tazila scholars, however, have rejected this appellation.<sup>13</sup>

The loss of power from ‘Alī and his son and the acquisition of power by Mu‘āwiya have been considered the earliest materialization of usurpation of power in Islam.

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<sup>10</sup> The most recent view comes from a contemporary historian, ‘Alī al-Ṣallābī, who doubted the historicity of the arbitration which ousted ‘Alī from his position as a caliph. See, al-Ṣallābī, *al-Daula al-Umawiyya*, I: 132-139. This is because believing so will harm the integrity of the companions involved in the events, such as Mu‘āwiya, ‘Amrū bin ‘Āṣ, and Abū Ḥasan al-Ash‘arī. In other words, al-Ṣallābī proposed this perspective to save those names from any scapegoating or stereotype associated with them in the conventional perspective. However, it is worth noticing that the perspective which doubt the arbitration is new. In the pre-modern period, no historians ever doubted it.

As Aaron M. Hagler mentions: “...despite the historiographical genealogy traced in this dissertation, there was, over the course of Islamic history, a general acceptance, on the parts of both Sunnīs and Shī‘īs, of the perspectives implicit in the widely-used work of Naṣr ibn Muzāḥim, al-Ṭabarī, and Ibn al-Athīr—namely, the rightness of ‘Alī, the wrongness of Mu‘āwiya, the foolishness of Abū Mūsā, the slyness of ‘Amr ibn al-‘Āṣ, and the hypocrisy of the Khawārij.” Hagler, “The Echoes of Fitna”, 303-304.

<sup>11</sup> Muḥammad Ibn Sa‘ad, *Tabaqāt al-Kubrā: al-Tabaqa al-Khāmisa min al-Ṣaḥāba*, ed. Muḥammad al-Sulaimī (Ṭāif: Maktaba al-Ṣiddīq, 1993), I: 316-7; *Tarīkh al-Ṭabarī*, VI: 77; ‘Alī al-Ṣallābī, *al-Daula al-Umawiyya*, I: 148-149.

<sup>12</sup> ‘Alī al-Ṣallābī, *al-Daula al-Umawiyya*, I: 157.

<sup>13</sup> Al-Jāhiz, for instance, refers to this year as *‘ām al-furqa* (the year of cleavage) instead of the year of unity in his *Risāla fī al-Nābita*. See, al-Jāhiz, *Rasāil al-Jāhiz*, II: 11.

Mu‘āwiya himself eventually is considered by many subsequent scholars as *bāghi* (rebels). This is particularly the position of Abū Ḥanīfa, al-Shāfi‘ī and most of the Mu‘tazila scholars, as I will explain in the next few pages. Certainly, this is also the position of Shī‘a. Rashīd Riḍā and ‘Abd al-Rāziq al-Sanhūrī, two reformist political theorists in the early twentieth century, also mention the rise of Mu‘āwiya and the Umayyad dynasty as the earliest manifestation of usurpation (*taghallub*).<sup>14</sup> Mu‘āwiya, Riḍā says, has used violence and coercion to have his son Yazid accepted as the next caliph. He threatened the sons of senior companions, namely Abū Bakr, ‘Umar, and al-Zubayr, to make *bay‘a* acknowledging his son as his successor. This appointment to Yazīd, which turned the *shura*-based political system into monarchy, Riḍā continues, is the gravest sin of the Umayyad dynasty which eventually became a repeated practice throughout history.<sup>15</sup> Likewise, al-Sanhūrī contends that Mu‘āwiya has used the physical power of people of Shām, to play a trick during the arbitration with ‘Ali, and seized the chaos after Ali’s death to come to the office, establishing himself as the first usurper in Islamic history.<sup>16</sup>

The next event is the usurpation of power from ‘Abd Allāh ibn Zubayr by ‘Abd al-Mālīk ibn Marwān. Since the appointment of Yazīd by his father, Ibn Zubayr has already shown a disapproval attitude to the leadership of the Umayyads.<sup>17</sup> He began to wage resistance after the death of Ḥusayn, who was killed in 61/680 during Yazid's regime.

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<sup>14</sup> Riḍā has a section called *kayfa sunna al-taghallub ‘alā al-khilāfa* (how usurpation over caliphate was initiated). See, *al-Khilāfa* (Cairo: Mu‘assasa Handāwī lī al-Ta‘līm wa al-Thaqāfa, 2012), 45; al-Sanhūrī has a section called *kayfa taqūm ḥukūma al-sayṭara wa al-quwwa* (how a government of domination and power becomes established). See, *Fiqh al-Khilāfa*, 226-8.

<sup>15</sup> Riḍā, *al-Khilāfa*, 46-7.

<sup>16</sup> Al-Sanhūrī, *Fiqh al-Khilāfa*, 227.

<sup>17</sup> Gerald R Hawting, *The First Dynasty of Islam: The Umayyad Caliphate AD 661-750* (London: Routledge, 2006), 46.

Yazīd himself, later on, fought Ibn Zubayr, who refused to give him *bay‘a* and acknowledged his legitimacy. Before he could execute his plan, however, he had already passed away.

Right after the death of Yazīd and a vacuum of leadership, Ibn Zubayr declared himself as *amīr al-mu‘minīn* (commander of the believers) in 64/684.<sup>18</sup> He claimed that his authority was supported by the quality of his lineage: he was the son of Zubayr ibn al-‘Awwām (a senior companion of the Prophet) and Asmā’ bint Abī Bakr (the daughter of the first caliph).<sup>19</sup> However, his declaration as caliph was challenged by two contenders, namely the Umayyads who managed to appoint Marwān ibn al-Ḥakam, and the Alids who preferred Muḥammad ibn al-Ḥanafīyya (the son of ‘Alī) and regarded him as a *al-Mahdī*.<sup>20</sup> However, Ibn Zubayr’s claim as caliph was recognized more widely, ranging from the provinces of Ḥijāz, Egypt, Kufa, Yaman, Shām, and Khurasān.<sup>21</sup> This recognition came especially after the Umayyads suffered from a collapse after the death of Mu‘āwiya II.<sup>22</sup> ‘Abd al-Malik, who succeeded his father, Marwān, could consolidate his power and eventually defeated Ibn Zubayr and killed him tragically.

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<sup>18</sup> Shams al-Dīn Muḥammad al-Dhahabī, *Siyar A‘lām al-Nubalā’*, ed. Shu‘aib al-‘Arnā‘ūt and Ḥusain al-Asad (Cairo: Mu‘assasa al-Risāla, 1982), III: 372; ‘Alī Muḥammad al-Ṣallābī, *Khilāfa Amīr al-Mu‘minīn ‘Abd Allāh ibn Zubayr* (Cairo: Mu‘assasa Iqra’, 2006), 63.

<sup>19</sup> Moshe Sharon, *The Establishment of the ‘Abbāsīd State: Incubation of a Revolt*. (Jerusalem, Leiden: Magnes Press, E.J. Brill, 1983), 45.

<sup>20</sup> Hugh Kennedy, *The Prophet and the Age of the Caliphates: The Islamic Near East from the Sixth to the Eleventh Century* (London; New York: Longman, 2004), 95.

<sup>21</sup> al-Dhahabī, *Siyar*, III: 364; Amr Osman, “Past Contradiction, Contemporary Dilemmas,” 313-6.

<sup>22</sup> Hamilton AR Gibb, “‘Abd Allāh B. Al-Zubayr,” in *Encyclopaedia of Islam, Second Edition*, 1960, [https://doi.org/10.1163/1573-3912\\_islam\\_sim\\_0069](https://doi.org/10.1163/1573-3912_islam_sim_0069), 55; Abou El Fadl, *Rebellion*, 70; al-Ṣallābī, *Khilāfa*, 64.

It is also worth noting that Ibn Zubayr's ten-year leadership also gained recognition from many ulama in the following centuries. Thus, 'Abd al-Mālik ibn Marwān, who ousted him in 73/692, was considered as a rebel. Only after defeating Ibn Zubayr, he is deemed a usurper caliph.<sup>23</sup> It is noteworthy that this particular event in early Islamic history will be recalled by contemporary Egyptian clerics, whom I shall discuss in chapter 5, to justify the usurpation of power taking place in Egypt in July 2013.

Another important occurrence which led to the emergence of the discourse of jurists and theologians in the second and third century of Islam is a seizure of power from Muḥammad ibn 'Abd Allāh (knowns as al-Nafs al-Zakiyya or pure soul), the descendant of Ḥasan ibn 'Alī ibn Abī Ṭālib, which was followed by his extermination by the Abbasid.

No historians deny the fact that the opposition movement to the Umayyads was a confederation of the descendants of 'Abbās (the Prophet's uncle) and those of 'Alī (the Prophet's cousin). Some even added the descendants of Ja'far ibn Abū Ṭālib (the brother of 'Alī) and that of 'Umar ibn Khaṭṭāb and Zubayr ibn al-'Awwām into the list.<sup>24</sup> Those different parties coalesced under the name of *Hāshimīyyūn* or the Hashimids (the

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<sup>23</sup> Many scholars hold the view about the legitimacy of Ibn Zubayr, such as Ibn 'Abd al-Bar, *al-Istī'āb*, III: 910; Abū al-Fidā' Ibn Kathīr, *al-Bidāya wa al-Nihāya* (Beirut: Maktaba al-Ma'ārif, 1993), VIII: 332; Jalāl al-Dīn al-Ṣuyūṭī, *Tārīkh al-Khulafā* (Qatar: Wizāra al-Awqāf wa al-Shu'ūn al-Islāmiyya, 2013); 347- 53; Muḥammad Ḍiyā' al-Dīn al-Rayyis, *al-Naẓariyyāt al-Siyāsāt al-Islāmiyya* (Cairo: Maktaba Dār al-Turāth, n.d.), 202-3. See also, Abou El Fadl, *Rebellion*, 70, 213.

<sup>24</sup> Fārūq 'Umar Fauzī, *al-Khilāfa al-'Abbāsiyya 'Aṣr al-Quwwa wa al-Izdihār* ('Ammān: Dār al-Shurūq, 2009), vol. I: 84; Riḍwān al-Sayyid, *al-Jamā'a wa al-Mujtama' wa al-Da'ula: Sulṭa al-Aidiyūlūjiyya fī al-Majāl al-Siyāsī al-'Arabī al-Islāmī* (Beirut: Jadāwil, 2015), 160.

descendants of Abū Hashīm who is the son of Muḥammad ibn al-Ḥanafīyya who is the son of ‘Alī ibn Abī Ṭālib).<sup>25</sup>

The early historical account mentions that in the assembly of the opposition movement in Abwā in 127/744, all factions agreed to appoint al-Nafs al-Zakiyya as the *imām* when the fall of Umayyads became a reality.<sup>26</sup> Realizing the internal conflicts between the Umayyads, those parties foresaw that the crumbling of this dynasty was happening soon, and they needed to have a leader. Al-Nafs al-Zakiyya was seen as *al-Mahdī* (Messiah).<sup>27</sup> He received an oath of allegiance from both the Alids and the Abbasids. However, immediately after the death of the last Umayyad’s caliph, Abū al-‘Abbās declared himself an *imām*, denying that he had already made an oath of allegiance to al-Nafs al-Zakiyya.

Having been a caliph for four years, in 136 H/753, Abū al-‘Abbās then appointed his brother Abū Ja‘far al-Manṣūr as his successor. Going beyond usurping power, al-Manṣūr launched a purge against al-Nafs al-Zakiyya and his followers. In 145/762, al-Nafs al-Zakiyya and his brother Ibrāhīm were assassinated, and his Hasanids family was

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<sup>25</sup> Abū al-Faraj al-Asfahānī, *Maqātil al-Ṭālibiyyīn*, ed. al-Sayyid Aḥmad Ṣaqr (Cairo: Dār Iḥyā al-Kutub al-‘Arabiyya, 1949), 233; Muhammad Qasim Zaman, *Religion and Politics under the Early ‘Abbasids: The Emergence of the Proto-Sunnī Elite* (Leiden: Brill, 1997), 34.

<sup>26</sup> Al-Asfahānī, who sympathize toward the Alids recorded in *Maqātil al-Ṭālibiyyīn* that al-Nafs al-Zakiyya received an oath of allegiance from both the Alids and the Abbasids including Abū Ja‘far al-Manṣūr dan al-Saffāḥ, the first two caliphs of the Abbasids. See, al-Asfahānī, *Maqātil Al-Ṭālibiyyīn*, 206-207, 256-257. It is worth noting that some historians, like Fārūq ‘Umar Fauzī, doubts the claim of agreement of all factions. Ja‘far al-Ṣādiq was seen as a dissenter from this agreement. See, *al-Khilāfa al-‘Abbāsiyya*, I: 52-3. Patricia Crone, however, documents that two children of Ja‘far, namely ‘Abd Allāh al-Aftāh and Mūsā al-Kāẓim, attended the meeting that appoint al-Nafs al-Zakiyya as a caliph. Crone, *God’s Rule*, 114.

<sup>27</sup> Riḍwān al-Sayyid edited al-Nafs al-Zakiyya’s writing entitled *al-Sīra fī Ahl al-Baghy*. In this book, besides reading the discussion of rebellion (*al-baghy*), one can also find al-Nafs al-Zakiyya’s declaration as a caliph. See, al-Sayyid, *al-Jamā‘a wa al-Mujtama‘ wa al-Daula*, 159-193.



imprisoned, who was eventually killed as well.<sup>28</sup> This event was also a material on which jurists and theologians in the 2<sup>nd</sup>/8<sup>th</sup> and 3<sup>rd</sup>/9<sup>th</sup> century of Islam gave comments and formulated discourse on the usurpation of power.<sup>29</sup>

Another political event that constituted a background of the emergence of usurpation discourse is the overthrow of the Umayyads by the Abbasids.<sup>30</sup> The fall of the Umayyads was signified by the murder of Marwān ibn Muḥammad in 132/749, the last caliph. As I mentioned above, the collapse of the Umayyads' office resulted from a coalition of different parties.

Early historians also recorded that all factions within the Hashimids used to embrace Alids' suffering as a symbol of resistance in the end of the Umayyads period, particularly after the death of al-Walīd III ibn Yazīd II in 125/742.<sup>31</sup> Even after the Abbasids acquired the office of caliphate following the dismissal of the Alids, the claim of legitimacy as caliphs was still based on the authority received from 'Alī's family. The first two caliphs of the Abbasids, Abū al-'Abbās and Abū Ja'far al-Manṣūr, claimed that they received a testament from their father, Muḥammad bin 'Alī, who received it from Abū Hāshim (the son of Muḥammad bin al-Ḥanafiyya, 'Alī's son). In other words, these two

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<sup>28</sup> Al-Ṭabarī, *Tārīkh al-Rusul wa al-Mulūk*, VII: 552-609; al-Asfahānī, *Maqātil al-Ṭālibiyyīn*, 260-77.

<sup>29</sup> It should be noted that the majority of historians frame this event as revolt (*khurūj*) of al-Nafs al-Zakiyya, instead of the usurpation (*taghallub*) of al-Manṣūr over his rulership. See, al-Asfahānī, *Maqātil al-Ṭālibiyyīn*, 361, 365; al-Ṭabarī, *Tārīkh al-Rusul wa al-Mulūk*, VI: 607; Jacob Lassner, *The Shaping of 'Abbasid Rule* (Princeton University Press, 1980), 69-79. Zaman, *Religion and Politics*, 73-75; Abou El Fadel, *Rebellion and Violence*, 75-76.

<sup>30</sup> As a matter of fact, the acts of *ghalaba* during the reign of the Umayyads took place several times, namely in 126/744 by Yazīd III against al-Walīd II and by Marwān against Ibrāhim in 127/750. These acts, however, did not become central to the attention of jurists and theologians and, therefore, did not significantly shape the ulama's discourses. For further information on this usurpation, see 'Alī al-Ṣallabī, 491-502, 511-512.

<sup>31</sup> Al-Asfahānī, *Maqātil al-Ṭālibiyyīn*, 158.

first Abbasid caliphs claimed that the rulership (imamate) descended from ‘Alī to his son Muḥammad bin al-Ḥanafiyya to Abū al-Hāshīm and finally to their father, Muḥammad.<sup>32</sup> Only after the coming of the Abbasids' third caliph, namely al-Mahdī ibn al-Manṣūr, this proof starts to be discarded. Al-Mahdī began to reconstruct another symbol of legitimacy based on the figure of al-‘Abbās ibn ‘Abd al-Muṭallib, their forefather and the uncle of the Prophet.<sup>33</sup>

Having summarized the three acts of removal of rulers in early Islamic history, in the next part, I shall describe the response of the jurists and theologians in the 2<sup>nd</sup> and 3<sup>rd</sup> centuries (the eighth and ninth common era) on such events. The 2<sup>nd</sup> and 3<sup>rd</sup> centuries of Islam were crucial to analyze because these are the periods in which the school of law and theology started to materialize. The founders and the early figures of these schools took a particular stance regarding the issues at hand.

## The Discourse of The Ulama

### *The Discourses of the Early Jurists*

This part analyzes the opinion of four notable founders of Sunni schools of legal thought, namely Abū Ḥanīfa, Mālik ibn Anas, al-Shāfi‘ī, and Aḥmad ibn Ḥanbal. The

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<sup>32</sup> Moshe Sharon, *The Establishment of the ‘Abbāsīd State*, 121-140; Jacob Lassner, *Islamic Revolution and Historical Memory: An Inquiry into the Art of ‘Abbāsīd Apologetics* (New Haven, Connecticut: American Oriental Society, 1986), 121-40; 55-71; Zaman, *Religion and Politics*, 34-35.

<sup>33</sup> Read M. Watt, *Islamic Theology and Philosophy* (Edinburgh: Edinburgh University Press, 1985), 33; Lambton, *State and Government*, 47; al-Aṭṭār, “The Political Thought of al-Jāḥīz,” I: 15. Another significant factor behind the fall of the Umayyads besides the Abbasids’ coalition with Alids was the support from *mawālī* (non-Arab Muslims) movement from Khurasan led by Abū Muslim. Agha even argues that this factor is far more significant than the coalition itself for the fall of the Abbasid. See, Şaleḥ Said Agha, *The Revolution Which Toppled the Umayyads: Neither Arab nor ‘Abbāsīd* (Leiden; Boston: Brill, 2003). See also Lassner, *The Shaping of ‘Abbāsīd Rule*, 91-115.

reason to choose these four names is that their school of thought has survived until the modern period and has been constituting a source of Muslim discursive tradition. In other words, the opinions of those four scholars have become a foundation and framework for the subsequent periods.

Abū Ḥanīfa is the earliest out of the four scholars. He lived in Iraq between 80-150/699-767, being a contemporary of the two dynasties. He spent 52 years under the Umayyads and 18 years under the Abbasids.<sup>34</sup> Abū Ḥanīfa is a sympathizer of the Alids and politically advocated the legitimacy of 'Alī's family above others. Accordingly, with regards to the issue of conflict with Mu'āwiya, he believes that this figure had seized power illegally from 'Alī (*igh̄tisāb*).<sup>35</sup> Besides Mu'āwiya, Abū Ḥanīfa also had minimal respect toward the Umayyads' rulers. In this regard, he supported all attempts carried out by the Alids to fight against the Umayyads. For instance, he condoned revolutions led by Zayd in 122/738 against the Umayyad caliph, Hishām ibn 'Abd al-Mālik.<sup>36</sup> Due to his pro-'Alī inclination, Abū Ḥanīfa also stood behind and recognized the legitimacy of al-Nafs al-Zakiyya.<sup>37</sup> When the Abbasid had acquired the power, he refused an appointment from Abū Ja'far al-Manṣūr to serve as a judge. As a consequence, he was imprisoned and tortured in jail.<sup>38</sup> This shows that Abū Ḥanīfa is not willing to negotiate with usurpers.

Unlike Abū Ḥanīfa, Mālik ibn 'Anas (d. 179/795), who lived in Madinah, did not comment on who is usurper and rebel in the conflict between Mu'āwiya and 'Alī. He was narrated as not inclining to 'Alī and does not esteem him as high as the first three earlier

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<sup>34</sup> Muḥammad Abū Zahra, *Abū Ḥanīfa: Ḥayātuh wa 'Āshruh, Arā'uh wa Fiḥhuh* (Cairo: Dār al-Fikr al-'Arabī, n.d.) 36.

<sup>35</sup> Abū Zahra, *Abū Ḥanīfa*, 185.

<sup>36</sup> Abū Zahra, *Abū Ḥanīfa*, 36.

<sup>37</sup> Al-Asfahānī, *Maqātil al-Ṭālibiyyīn*, 146; Abū Zahra, 46-47, 183.

<sup>38</sup> al-Dhahabī, *Siyar A'lām al-Nubalā'*, VI: 401-3; Abū Zahra, *Abū Ḥanīfa*, 57-60.

caliphs.<sup>39</sup> However, he took a firm stance regarding the conflict between Ibn Zubayr and the Umayyad. He recognizes Ibn Zubayr as the rightful leader and deems the Umayyad caliphs as usurpers.<sup>40</sup> He also holds a clear position regarding the rivalry between al-Nafs al-Zakiyya and the Abbasids. As a fellow Madinese, he supported and made an oath of allegiance to al-Nafs al-Zakiyyah and even encouraged people to support him instead of Abū Ja'far al-Manṣūr.<sup>41</sup> It seems that Mālik takes the agreement between the factions of the opposition in the Abwā' meeting seriously. Furthermore, he was probably dissatisfied with the conduct of the Abbasid rulers.<sup>42</sup> He also issued a *fatwā* that people's *bay' a* to al-Manṣūr is invalid because they did so under coercion.<sup>43</sup> Mālik narrated a hadith on a legal issue related to *bay' a*.<sup>44</sup> As a result of this narration, he was imprisoned and tortured until his arms became dysfunctional. Despite his rejection of Abū al-ʿAbbās and Abū Manṣūr, Mālik subsequently accepts the rise of the Abbasid as an objective reality. There is a report that he advised the Abbasids' caliphs after Abū al-ʿAbbās and Abū Manṣūr on how to lead the administration in conjunction with sharia.<sup>45</sup> This acceptance shows that Mālik is willing to accede to usurpation if it already transpires as a reality.

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<sup>39</sup> Abū Zahra, *Mālik: Ḥayātuh wa ʿĀshruh, Arāʾuh wa Fiqhuh* (Cairo: Dār al-Fikr al-ʿArabī, n.d.), 72-3.

<sup>40</sup> He mentions that Ibn Zubayr is better than Marwan and his son, ʿAbd al-Mālik. See, Ibn ʿAbd al-Barr, *al-Istīʿāb*, III: 910.

<sup>41</sup> Al-Asfahāni, *Maqātil*, 283; Abū Zahra, 79.

<sup>42</sup> Zaman, *Religion and Politics*, 75.

<sup>43</sup> Abū Zahra, *Mālik*, 77.

<sup>44</sup> He narrated a hadith: *laysa ʿalā mustakrah ṭalāq* (that a decision of a husband to divorce his wife under coercion is invalid). See, al-Dhahabī, *Siyar*, VIII:79–80. This hadith implies that any conduct in the situation of coercion, including an oath of allegiance, is equally void.

<sup>45</sup> Abū Zahra, *Mālik*, 81-5.

Muḥammad ibn Idrīs al-Shāfi‘ī (d. 204/819), the famous Sunni jurist known for his successful attempt of reconciling the legal epistemology of Abū Ḥanīfa and Mālīk,<sup>46</sup> was born five years after the murder of al-Nafs al-Zakiyya. Given that the Abbasids’ rulership had become an objective reality, the legitimacy of their rulers and the issue of al-Nafs Zakiyya’s right over the imamate was no longer of his concerns. However, he had a view on the issue of the first conflict. Like Abū Ḥanīfa, he is also a supporter of *ahl al-bayt* (the Prophet's family).<sup>47</sup> He maintained that whoever fought against ‘Alī, including Mu‘āwiya, is a rebel (*al-bāghī*).<sup>48</sup> Besides his political stance on the conflict between ‘Alī and Mu‘āwiya, we can also find his legal position on the issue of usurpation in general. He is quoted as saying: “whoever usurps power with a sword, until he becomes a caliph and people unite under him, then he deserves the title caliph.”<sup>49</sup> He put two conditions for accepting rulership of a usurper, namely: a usurper is Quraishī, and people unite under him.<sup>50</sup>

The last jurist is Aḥmad ibn Ḥanbal (d. 241/855). He was born 19 years after the assassination of al-Nafs al-Zakiyya or 32 years after the first caliph of the Abbasids declared his imamate. There is a conflicting report regarding his opinion on the conflict

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<sup>46</sup> Regarding the emergence of *madhhab* al-Shāfi‘ī, see Ahmed El Shamsy, *The Canonization of Early Islamic Law: A Social and Intellectual History*. (Cambridge, UK: Cambridge University Press, 2013).

<sup>47</sup> For this fact, he was accused of being a *rāfiḍī* (Shi‘ite) at his time. Muḥammad Abū Zahra, *Shāfi‘ī: Ḥayātuh wa ‘Aṣruh, Arā‘uh wa Fiqhuh* (Cairo: Dār al-Fikr al-‘Arabī, n.d.), 144.

<sup>48</sup> Aḥmad ibn al-Ḥusain al-Baihaqī, *Manāqib al-Shāfi‘ī*, ed. al-Sayyid Aḥmad Ṣaqr (Egypt: Dār al-Turāth, 1970), I: 447; Abū Zahra, *Shāfi‘ī*, 141. His discussion on rebellion in his book *al-Umm* was entirely based on ‘Alī treatment of rebels. See, Muḥammad ibn Idrīs al-Shāfi‘ī, *al-Umm*, ed. Raf‘at Fauzī (al-Manṣūra: Dār al-Wafā’, 2001), V: 513-56.

<sup>49</sup> al-Baihaqī, *Manāqib al-Shāfi‘ī*, I: 448.

<sup>50</sup> Abū Zahrā, *al-Shāfi‘ī*, 140.

between ‘Alī and Mu‘āwīya. According to Sarhan, he refused to recognize Ali's legitimacy in the beginning but eventually changed his view.<sup>51</sup> On the other hand, unlike al-Shāfi‘ī, he refused to call Mu‘āwīya and his supporters as rebels.<sup>52</sup> Accordingly, he did not label Mu‘āwīya as a usurper because, for Aḥmad, he became a caliph as a result of an agreement between him and Ḥasan in the year of unity (*‘am al-jamā‘ah*).<sup>53</sup> He also rejected two major trends before his period: the condemnation of either ‘Alī or Mu‘āwīya. For him, both are noble companions who deserve respect from Muslims.<sup>54</sup>

Despite his in-between position on the conflict of the two companions, Aḥmad is also well-known for his legal view that any usurper of power must be accepted. His famous statement regarding the issue is:

"Whoever usurps power with a sword until he becomes a caliph, and he is being called *amīr al-mu‘minīn*, it is not permissible for those who believe in God and the day of Judgement to pass the night and does not regard him as a ruler, regardless of the fact he is just or unjust person. He is a truly *amīr al-mu‘minīn*."<sup>55</sup>

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<sup>51</sup> Saud Saleh AlSarhan, "A Critical Study of the Works and Political Theology of Ahmad Bin Hanbal" (Ph.D. Dissertation, 2011), <https://ore.exeter.ac.uk/repository/handle/10036/3374>, 120. It should be noted that his defense for ‘Alī took place during the height of regime's hostility toward the imam. Caliph al-Mutawakkil had an intense enmity against ‘Alī. See, Muḥammad Abū Zahra, *Ibn Ḥanbal: Ḥayātuh wa ‘Aṣruh, Arā‘uh wa Fiqhuh* (Cairo: Dār al-Fikr al-‘Arabī, n.d.), 170.

<sup>52</sup> *Ibid.*, 131; There is one report stating that he does object the opinion of his teacher, al-Shāfi‘ī, that Mu‘āwīya is a rebel. Abū Zahra, *Ibn Ḥanbal*, 171.

<sup>53</sup> AlSarhan, "A Critical Study," 156.

<sup>54</sup> This tendency to see Mu‘āwīya positively will become a trademark of Hanābila circles.

<sup>55</sup> Abū Ya‘lā al-Farrā’, *al-Aḥkām al-Sulṭāniyya*, 22; Abū Zahra, *Ibn Hanbal*, 173; Saud Saleh AlSarhan, "A Critical Study," 156; Han Hsien Liew, "Ibn al-Jawzī and the Cursing of Yazīd b. Mu‘āwīya: A Debate on Rebellion and Legitimate Rulership," *Journal of the American Oriental Society* 139, no. 3 (2019): 639.

Aḥmad bases this position on Ibn ‘Umar’s opinion, who is reported as having said: “I do not fight any group in a time of political disorder, and I am willing to pray behind any person usurping a power.”<sup>56</sup> This also includes the situation where a usurper is a sinful person. His command of jihad against enemies must be obeyed. The punishment against criminals must be applied under his administration. Moreover, people are not supposed to rebel against a usurper, which will only create a disturbance.

From the above observation, it becomes clear that the four Sunni jurists had already been preoccupied with the issue of usurpation of power. However, their discourse is not systematic yet. Until this point in time, there is no specific chapter devoted to addressing the usurpation of power in legal books. In other words, the four eponyms of *madhhab* did not write this issue in their treatise. We found their political stance as reports on books of biography written by their sympathizers in the next period. In this regard, it is worth noticing that the discourse on *baghy* (rebellion) among jurists (*fuqahā*) became coherent much earlier than the discourse on usurpation. The issue of rebellion had been elaborated and systematized since the period of al-Shāfi‘ī. He had a particular chapter devoted to this issue in his book *al-Umm*.<sup>57</sup> It implies that jurists in the early period were more concerned about regulating rulers’ treatment of rebels instead of people usurping power from each other. However, their willingness to state their position about who are usurpers among the people in conflict shows that they also have concern over the issue of political legitimacy.

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<sup>56</sup> Ibn Sa‘ad, *al-Tabaqāt al-Kubrā*, IV: 139; Saud Saleh AlSarhan, “A Critical Study,” 155.

<sup>57</sup> Al-Shāfi‘ī, *al-Umm*, V: 513-56; see also, Abou El Fadl, *Religion and Politics*, 147-158.

### *The Discourses of the Early Theologians*

Just like jurists, early theologians also responded to political predicaments happening in their time.<sup>58</sup> In terms of scale, it is safe to say that theologians were much more preoccupied with political issues than jurists. This is because many political concerns have strong association with theological questions, such as the issue of imamate and destiny and imamate and God's justice. Therefore, it is not surprising that almost every theologian had a particular stance regarding the issue of the legitimacy of usurpation of power occurring in early Islamic history.

Ḥasan al-Baṣrī (d. 110/728), known as a defender of free will, opined that Mu'āwiya is a rebel and usurper of 'Alī's rulership.<sup>59</sup> Since Ḥasan had already passed away before the fall of the Umayyads, there is nothing one can read about his view on the rise of the Abbasids and the al-Nafs al-Zakiyya's movement.

Wāṣil ibn 'Atā' (d. 131/748), the founder of Mu'tazila and the student of Ḥasan al-Baṣrī, is the most active theologian addressing the political issue at his time. There is a report that Wāṣil rejected the legitimacy of Mu'āwiya's rulership, and the latter has usurped power from 'Alī.<sup>60</sup> Regarding al-Nafs al-Zakiyya's claim of rulership, Wāṣil is one of his strong proponents. He also gave his oath to al-Nafs al-Zakiyya.<sup>61</sup> This fact is

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<sup>58</sup> What I mean by theologians in this section are theologians of Mu'tazila. Therefore, this is a general term that signifies a specific group. Mu'tazila is one of the oldest schools of theology. During the second century of Islam, the number of schools of theology is still minimal. The Ash'arī and the Māturidī, which later became mainstream theology in the Islamic world, did not exist yet in this period.

<sup>59</sup> Abu Zahra, *Mālik*, 72.

<sup>60</sup> Sulaimān al-Shawāsi, *Wāṣil ibn 'Aṭā' wa Ara'uhu al-Kalāmiyya* (Libia: al-Dār al-'Arabiyya li al-Kutub, 1993), 296-7. It should be noted that Wāṣil ibn 'Aṭā' is a student of Abu Hasyim, a strong oppositional figure to the Umayyads. Sulaimān al-Shawāsi, *Wāṣil ibn 'Aṭā' wa Ara'uh al-Kalāmiyya* (Libia: al-Dār al-'Arabiyya li al-Kutub, 1993), 295-302.

<sup>61</sup> Al-Asfahānī, *Maqātil*, 293-294.



not surprising given that al-Nafs al-Zakiyya is his student.<sup>62</sup> The latter joined his rational school to find the material to resist the theology of predestination that the Umayyads had spread to maintain their hegemony. The same stance regarding al-Nafs al-Zakiyya applies to ‘Amrū ibn ‘Ubaid, a theologian credited as the co-founder of Mu‘tazila.<sup>63</sup>

We have lesser information on the stance of the second generation of Mu‘tazila. Abū al-Hudhail al-‘Allāf (d. 235/839), a theologian who constructs Mu‘tazila as a systematic school of theology, maintains that Mu‘āwiya is wrong.<sup>64</sup> Ibrāhim al-Nazzām (d. 221/836), a student of al-‘Allāf, is also a supporter of ‘Alī in the arbitration. Furthermore, he espouses the concept of designation (*naṣṣ*) from the Prophet to ‘Alī, denying the legitimacy of the imamate of Abū Bakar, ‘Umar, and Uthmān.<sup>65</sup> In contrast to the theologians mentioned above, al-Aṣamm (d. 279/892) agrees with the removal of ‘Alī by his umpire Abū Mūsā al-Ash‘arī. He even rejected ‘Alī's legitimacy as a caliph.<sup>66</sup> To support this position, al-Aṣamm maintains that rulership must be upheld with people's consensus (*ijmā‘*) which ‘Alī does not have. Al-Shahrastānī argues that requiring consensus is nothing other than his strategy to delegitimize ‘Alī, who was rejected by the people of Syria at the time.<sup>67</sup> Accordingly, al-Aṣamm considered Mu‘āwiya as a legitimate ruler.<sup>68</sup>

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<sup>62</sup> al-Sayyid, *al-Jamā‘a*, 163.

<sup>63</sup> Al-Asfahānī, *Maqātil*, 293-294; ‘Imāra, *Muslimūn Thuwwār*, 169.

<sup>64</sup> W. Montgomery Watt, *The Formative Period of Islamic Thought* (Edinburgh: Edinburgh University Press, 1973), 226; “The Political Attitudes of the Mu‘tazilah,” *Journal of the Royal Asiatic Society* 95, no. 1–2 (April 1963), <https://doi.org/10.1017/S0035869X00121392>, 49.

<sup>65</sup> Al-Shahrastānī, *al-Milal wa al-Niḥal*, I: 50-51.

<sup>66</sup> Al-Ash‘arī, *Maqāla al-Islāmiyyīn*, II: 145.

<sup>67</sup> Al-Shahrastānī, *al-Milal wa al-Niḥal*, I: 63; Ibrāhim al-Fayyūmī, *al-Mu‘tazila: Takwīn al-‘Aql al-‘Arabīy, A lām wa Afkār* (Cairo: Dār al-Fikr al-‘Arabīy), 2002, 351-2.

<sup>68</sup> Watt, *The Formative*, 227.

To this end, we have found multiple opinions among Mu‘tazila theologians. It now becomes safe to say that the Mu‘tazila do not have a coherent view on imamate and the legitimacy of usurpation. We even read two conflicting and extreme opinions. On the one hand, there is al-Nazzām, who is ‘Alī’s die-hard supporter. On the other hand, we also have al-Aṣṣam, who supported Mu‘āwiya’s act of usurpation.<sup>69</sup> This fact signifies that being committed to the school’s core principles of theology, namely *uṣūl al-khamsa*, does not necessarily unite scholars on political issues.<sup>70</sup> More thorough research needs to be done on such correlation, however.

Based on this description, one can get an impression that just like the jurists, the early theologians were generally more preoccupied with immediate and practical issues, which are the legitimacy of ‘Alī or Mu‘āwiya and legitimacy of al-Nafs al-Zakiyya or the Abbasids. None of them bring the issue of usurpation to an abstract and theoretical level where they address the issue of mechanism to acquire power in a holistic manner.

The next section will describe the scholarly discourse of al-Jāḥiẓ, a third century Mu‘tazila theologian, on the issue of usurpation. Compared to his predecessors, his view is much more developed and systematized.

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<sup>69</sup> Later Mu‘tazila scholars, such as al-Khayyāṭ and Ibn Abī al-Ḥadīd claim the opposite, namely that the earliest Mu‘tazila agreed that Mu‘āwiyya is a reprobate ruler and had usurped power. ‘Imāra, a modern historian who cited their view, seems to agree with this claim. See, Muḥammad ‘Imāra, *al-Islām wa Falsafa al-Ḥukm* (Cairo: Dār al-Shurūq, 1989), 511.

<sup>70</sup> In fact, Mu‘tazila has a vast spectrum of opinions, even in theology. Some modern researchers even notice that among Mu‘tazila scholars, there is a tendency to excommunicate if they differ. Watt, *The Formative*, 223; al-Fayyūmī, *al-Mu‘tazila*, 372. Michael Cook states regarding the spectrum within Mu‘tazila: “Mu‘tazilism thus tended to become a tradition of socially and politically disembodied intellection.” See, *Commanding Right and Forbidding Wrong in Islamic Thought* (Cambridge; New York: Cambridge University Press, 2010), 195.

*The Contribution of al-Jāhīz: Practical and Theoretical Approach*

Al-Jāhīz (d. 159-255/776-869) is most likely the most prolific theologian in the third/ninth century. He witnessed a dynamic political period of the Abbasids: its triumph and demise, being a contemporary of at least 11 caliphs of the Abbasids. He lived for almost a century, leaving behind 245 treatises from a wide range of fields, 27 out of which dealt with imamate.<sup>71</sup> He had a very significant contribution to Islamic political thought. While the ulama prior to him responding to political issues were only interested in political events, not in theorization, al-Jāhīz wrote on both levels.<sup>72</sup>

Al-Jāhīz took a firm stance regarding the four historical acts of usurpation of power in early Islamic history. In the first matter, al-Jāhīz very harshly condemns the act of removal of ‘Alī and the personality of Mu‘āwiya. He labels Mu‘āwiya as reprobate (*fāsiq*), being astray, and nothing short of an infidel. Whoever rejects to curse Mu‘āwiya, he contends, is worth cursing as well. Furthermore, Mu‘āwiya does not have any merit to be a caliph. He only utilized the sentiment of the people of Syria who demanded the investigation of ‘Uthmān assassination. If ‘Uthmān had not been killed, Mu‘āwiya would have not become a caliph.<sup>73</sup> The year in which Mu‘āwiya came to the office is a year of injustice, usurpation, and chaos instead of a year of unity, as al-Jāhīz claimed. It was a period when the Islamic political system shifted into a Persian monarchy and Byzantine usurpation.<sup>74</sup>

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<sup>71</sup> El-Aṭṭār, “The Political Thought of al-Jāhīz,” 43.

<sup>72</sup> Charles Pellat, *The Life and Works of Jahiz: Translations of Selected Texts*, trans. D. M. Hawke (London: Routledge & Kegan Paul, 1969), 51-52.

<sup>73</sup> Pellat, *The Life and Works*, 67.

<sup>74</sup> Al-Jāhīz, “Risāla fi al-Nābita” in *Rasāil al-Jāhīz*, II: 10-1. See also, al-Jāhīz, *Al-Rasā’il al-Siyāsiyya* (Beirut: Dār wa Maktaba al-Hilāl, 2002), I: 398-9.

Al-Jāhīz also condemns the usurpation of power by the Umayyad from ‘Abd ‘Allāh ibn Zubayr. He accepts the claim of imamate of Ibn Zubayr against the Umayyad who institutionalized hereditary and abandoned *shūrā*.<sup>75</sup> However, al-Jāhīz supports the usurpation from al-Nafs al-Zakiyya. He praised ‘Īsā ibn Mūsā, a military leader for al-Manšūr who defeated and killed al-Nafs al-Zakiyya and his brother, Ibrāhīm.<sup>76</sup> In other words, he does not admit the claim of imamate from al-Nafs al-Zakiyya.

With respect to the rise of the Abbasids after the defeating the Umayyads, al-Jāhīz was a strong supporter of it. His loyalty made him almost like the mouthpiece of this dynasty. In fact, his entire political works revolve around the merit of the Abbasids.<sup>77</sup> As El-Aṭṭār states: “At one end of the stage stood men like al-Jāhīz...to denounce any possible virtue that may be ascribed to the state enemies, the Umayyads.”<sup>78</sup> Al-Jāhīz justifies the removal of the Umayyad by the Abbasids with several strategies, one of which is by undermining the quality of the Umayyads’ leadership. Out of all requirements for a caliph, he says, the Umayyad only fulfills one, which is coming from the Quraish tribe.<sup>79</sup>

From the above observation, it becomes clear that al-Jāhīz’s stances on the historical acts of usurpation of power does not indicate a coherent view. On the one hand, he rejected the act of Mu‘āwiya against ‘Alī and that of ‘Abd al-Mālik against Ibn

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<sup>75</sup> Al-Jāhīz, “Risāla fī al-Nābita” in *Rasāil al-Jāhīz*, vol. II: 15-6. El-‘Aṭṭār opines that the term Uthmāniyya which al-Jāhīz coined, could accommodate several political inclinations, including Zubayrids. This means that al-Jāhīz is also a supporter of Ibn Zubayr against the Umayyads. El-‘Aṭṭār, I: 123.

<sup>76</sup> Al-Jāhīz, *al-Rasā’il al-Siyāsiyya*, I: 460.

<sup>77</sup> In his book *Fadl Banī Hāshim*, for instance, he writes about the merits of *Banī Hāshim* over *Banī ‘Abd al-Shams*. See, al-‘Aṭṭār, *The Political Thought*, I: 243; Pellat, *The Life and Works*, 36.

<sup>78</sup> El-Aṭṭār, “The Political Thought of al-Jāhīz,” I; 201.

<sup>79</sup> In fact, his treatise “Risāla fī al-Nābita” is devoted to attacking the Umayyad caliphs. It is also called “Risāla fī Banī Umayya”.

Zubayr. On the other hand, he accepted the usurpation of the Abbasids against ‘Alī’s descendants. In other words, he condemns one form of usurpation of power, but condones the other. This shows that his partisan behavior determines his discourse to the Abbasids. Soft apparatuses of a political system, namely the concept of legitimacy stemming from an oath of allegiance (*bay‘a*) and a contract (*‘aqd*) between people of election and caliphs, do not play a role in his discourse of historical events.

A theoretical aspect of al-Jāhīz’s abstract discourse on usurpation is not less interesting to analyze. He talks about this issue in relation to a system of selection of an *imām*. He contends that besides being the most meritorious (*afḍāl*), an *imām* must also be a famous person (*bāin al-amr*) where his virtues are widely known. This condition would prevent an ambitious incapable person from usurping power. He contends that a rivalry on power and usurpation in Islamic history happens because an existing ruler’s capacity is not salient.<sup>80</sup> Therefore, if a person meeting the whole criteria of an *imām* and being outstanding and salient among people exists, he could be appointed with an acclamation. People’s assembly (*shūrā*) or designation from a previous ruler is no longer needed.<sup>81</sup>

The question arises: how if a usurpation could not be prevented earlier and already becomes a fact? Al-Jāhīz answers that this usurpation should be accepted as an objective reality. However, in any case, he refuses to give a justification and legitimacy to a usurper. He considers a person illegally taking power from an existing ruler as a usurper rebel (*al-bāghi al-mutaghallib*).<sup>82</sup> This contrasts with Aḥmad ibn Ḥanbal who

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<sup>80</sup> Al-Jāhīz, *Rasā‘il al-Jāhīz*, IV: 304-5.

<sup>81</sup> ‘Amrū ibn Baḥr al-Jāhīz, *al-‘Uthmāniyya* (Cairo: Dār al-Jīl, 1991), 270-1.

<sup>82</sup> Al-Jāhīz, *al-‘Uthmāniyya*, 261.

accepts usurpation but does not judge a usurper as a rebel and accepts him without conditions to maintain political stability.

When there is a possibility to regain power, al-Jāḥiẓ goes on, a usurper must be resisted and replaced with a legitimate *imām*. However, when people lack such an ability to overthrow a usurper, for instance, he is militarily too strong, they must be complacent with him. Accordingly, aristocrats who have the authority to select a ruler must practice a *taqiyya* (dissimulation).<sup>83</sup> Al-Jāḥiẓ also notes that a usurper will not remain powerful forever. Certain situations might weaken his power, such as a quarrel with his family, an enemy intrusion, and the death of his elites. When a hegemony of such a usurper degenerate, an excuse of dissimulation disappears, and it becomes incumbent upon people to retrieve power.<sup>84</sup>

It is worth noticing that this is another issue that makes al-Jāḥiẓ different from Aḥmad. The latter accepts a usurper to avoid chaos but does not encourage to avenge. Al-Jāḥiẓ does not use this logic. For him, a usurper's rulership is only temporary. A capable and rightful person must be ready to regain power.

It seems that the overall theoretical view of al-Jāḥiẓ on the usurpation of power described above is nothing short of a reflection and abstraction of a historical event, which is the removal of the Umayyads by the Abbasids. In other words, it is a political reality and his affiliation with the Umayyads that shape his political theory, not the other way around. Al-Jāḥiẓ deems the Umayyads, who had ruled people for 91 years, as usurpers. Due to their internal conflict and relentless opposition from the Abbasids, their power crumbles at one point in history. This is a moment when the so-called rightful people must regain the imamate.

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<sup>83</sup> Al-Jāḥiẓ, *al-ʿUthmāniyya*, 262.

<sup>84</sup> Al-Jāḥiẓ, *al-ʿUthmāniyya*, 265.

To conclude this section, one thing needs to be alluded to. In the second/eighth and third/ninth, the ulama only focused on coup or usurpation of power from a caliph by another caliph. Other forms of usurpation, which are a usurpation of power from a governor in a province and control of a caliph by his military general, have not crystallized as a systematic discourse even though they have taken place in various regions.

The following section will examine the views of the ulama living in the 4<sup>th</sup>/10<sup>th</sup> - 5<sup>th</sup>/11<sup>th</sup> century. It will show how discourses of ulama become more complex and develop in conjunction with the complexity of empirical reality surrounding them.

### *The Systematization of Discourse*

This part examines how the ulama living in the period of the political decline of the Abbasid developed and systematized discourses of usurpation of power. Those ulama take a stance regarding the usurpation events in the past and bring the issue to a theoretical level.

Before expounding these discourses, I will first shed light on socio-political conditions of the third/ninth and fourth/tenth century as the material on which the ulama provided their view. The more developed discourses of ulama appeared as responses to the shift in the social and political realm of the time. In particular, their discourses were determined by the social-political situation in the Abbasid caliphs' office and other events surrounding them.

#### Local Seizure and Domination of *Sulṭān* as Political Background

The third and fourth (ninth and tenth) centuries witnessed the ubiquity of political turmoil in the Abbasid empire which eventually caused the erosion of the

caliphs' influence. From this period onward, the caliphs were no longer as powerful as before. They had to make several concessions to retain their legitimacy and symbolic authority due to their diminishing roles.

Two common phenomena occurred and changed the political landscape in third and fourth centuries. First, there had been phenomena called the seizure of local power (*al-taghallub fī al-bilād* or *al-istilā' alā al-'imāra fī al-iqlīm*) in various the Abbasid's provinces. The warlords, most of them are Turks and Persians, seized a province located far away from the Abbasids' capital or tutelage of caliphs.<sup>85</sup> They overthrew a governor appointed by a caliph, and then installed themselves as new rulers for the territory they conquered. Some of these local usurpers could be defeated by ruling caliphs. However, some others remained in control as governors, compelling a caliph to admit their autonomy with the condition that they recognize his legitimacy.

It is important to note that a requirement that a caliph must be from the descendants of the Quraish tribe which ulama established since the first century of Islam became the biggest stumbling block of those non-Arab elites to elevate themselves to a position of a caliph. The maximum level these warlords could climb had been either as a *waliyy* (governor), *amīr* (military commander), *wazīr* (prime minister), or *amīr al-'umarā'* or *sultān* (chief commander).

The following are some independent dynasties in the history of the Islamic world that emerged in history as a result of usurpation of local territory against a caliph's authority:<sup>86</sup>

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<sup>85</sup> Warlord is the term introduced by Montgomery Watt to refer to this position. He defines warlords as "...men who came to rule through their military power, but who did not claim to rule in their own right. Though the caliph was powerless against them, they were content to be in theory his subordinates." Read, W Montgomery Watt, *Islamic Political Thought* (Edinburgh: Edinburgh University Press, 2003), 100.

<sup>86</sup> Richard Nelson Frye (ed.), *The Cambridge History of Iran, Volume 4: From the Arab Invasion to the Saljuqs* (Cambridge Cambridge University Press, 1974), 1-304;



- a. the Samanids (203-389/819-999) in Khurasan and Transoxiana
- b. the Tahirids (205-259/821-873) in Marw and Isfahan
- c. the Hamdanids (276-394/890-1004) in the northern Iraq nearby Efrat river
- d. the Salarids (306-453/919-1062) in Azerbaijan
- e. the Ziyarids (317-482/930-1090) in northern Iran (Ray, Isfahan, Amol, and Gorgan)
- f. the Buyids in Daylam (conquered Ziyarid dynasty in Iran in 323/934 and 332/943 seized the office of caliphs in Baghdad)
- g. the Tulunids (254-292/868-905) followed by the Ikhshidids (323-358/935-969) in Egypt.

Second, the third and fourth century also witnessed the hegemony of non-Arab military commanders called *amīr al-ʿumarāʾ* or *sulṭān* over the political affairs. Some of the local usurpers mentioned above managed to come to the caliphs' office. They subdued the caliphs under their authority, making the official caliphs were only titular under them. Therefore, the real executive power laid at their hand.

It is noteworthy that the non-Arab military commanders had been present since the early Abbasids period. Abū Muslim al-Khurāsānī (d. 137/755), the first commander and one of the Abbasids founders, for example, was a military general from Persia. After the Persian, particularly in the third/ninth century, the Turks overtook the position of

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Hugh Kennedy, "Central Government and Provincial Élites in the Early 'Abbāsīd Caliphate," *Bulletin of the School of Oriental and African Studies* 44, no. 1 (February 1981): 26–38; Clifford Edmund Bosworth, *The New Islamic Dynasties: A Chronological and Genealogical Manual* (Edinburgh: Edinburgh University Press, 2012).

the holder of military power. It was al-Mu‘taṣim (d. 277/890) who relied extensively on Turk soldiers for the first time.<sup>87</sup>

The intervention of Turks in politics, not only as armed forces but also as decision makers, was intensified by the time of al-Mutawakkil (232-247/846-861).<sup>88</sup> Starting from this period, it becomes very common to see Turk armies removed caliphs and installed new ones according to their interests.<sup>89</sup>

In addition to establishing an imamate, those potentates took over numerous executive jobs. This happened particularly after 322/934, a year in which the governor of Wāsiṭ named Ibn al-Rāiq forced the caliph al-Rāḍī to appoint him as *amīr al-umarā’* (chief commanders) of the Abbasids. From this reign onward, chief commanders of the Abbasids became far more potent than ever before. They emptied almost entirely the position of a caliph from administrative affairs, leaving him only a symbol of religious unity of Muslims and the supremacy of shariah.<sup>90</sup> For instance, these commanders could

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<sup>87</sup> Al-Jāḥiẓ wrote a treatise praising the Turks roles in the caliphate. Al-Jahiz, “*Manāqib al-Turk wa ‘Āma Jund al-Khilāfa*” in *Rasā’il al-Jāḥiẓ al-Siyāsiyya*, 471-519.

<sup>88</sup> Al-Mutawakkil himself was appointed by the Turks. Tragically, however, al-Mutawakkil was also assassinated by those who installed him. In 252/866, the Turks installed al-Mu‘taz for the office of the caliphate in Samira but imprisoned him in 255/869, leading him to pass away in jail. Still, in 320/932, al-Qāhir was selected as a caliph but ousted only two years after sitting in his office. Fārūq ‘Umar Fauzī, *al-Khilāfa al-‘Abbāsiyya: al-Suqūṭ wa al-Inhiyār* (‘Ammān: Dār al-Shurūq, 2009), II: 27-28, 59-60.

<sup>89</sup> Three factors allowed the coming of those foreign commanders into the political field. *First*, the Abbasids' caliphs employed foreign soldiers as security guards to protect them from their competitors, who were sometimes no other than their siblings. The caliph al-Muntaṣir (d. 247-248/861-862), for instance, used Turk soldiers to force his two brothers, al-Mu‘taz and al-Muayyid, to concede and accept his imamate. *Second*, caliphs used them for the battles against non-Muslim. Al-Muttaqī Lillāh (d. 328-332/940-944), for example, sent Turks for the war against the Byzantine. *Finally*, sometimes those soldiers were also used to exterminate rebels in provinces who wanted an independent territory. Having been only 'tools', those soldiers ultimately could weaken a caliph and control the office, becoming actual rulers.

<sup>90</sup> This denigrates the position of a caliph or *imām* in imamate discourse as a substitute of the Prophet in managing worldly and religious affairs.

designate *wazīr* (prime minister) as well as governors. Moreover, they supervised bureaucracy and financial sector.<sup>91</sup> Even more, they asked that their names be mentioned in the Friday sermon, along with the names of caliphs. Bajkam, the next chief commander after Ibn al-Rāiq, continued the long tradition of intervening in the imamate affairs. In 329/940, he appointed al-Muttaqī lillāh as a caliph after the death of al-Rāqī.<sup>92</sup>

The ascendancy of Turk soldiers in the central office of the caliphate faded away in the period between 334-447/945-1055. The Buyid Persian soldiers from Daylam expropriated this position. Like the previous regimes, the *amīrs* of the Buyids controlled, overthrew, and deposed caliphs at their wills.<sup>93</sup> During their seize of the caliphate, there were two caliphs ousted. Al-Mustakfī was removed by *amīr* Mu‘iz al-Dawla and replaced by al-Muṭī‘.<sup>94</sup> The latter sat in the office only for eleven days after the coming of Mu‘iz into Baghdad. Next, al-Ṭāi‘ was deposed by *amīr* Bahā’ al-Dawla. To symbolize *amīr*’s salient position, Jalāl al-Dawla used the new title, *shahanshah* (Arabic: *mālik al-mulūk* or king of the king).<sup>95</sup>

In the second half of the fifth century, due to the high frequency of the internal conflict between the Buyids’ elites, the control of Persians over the caliphate ended.<sup>96</sup>

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<sup>91</sup> Fārūq ‘Umar, *al-Khilāfa*, II: 64.

<sup>92</sup> Fārūq ‘Umar, *al-Khilāfa*, II: 64.

<sup>93</sup> For the Buyid’s control over the caliphate, see Hugh Kennedy, *The Prophet and the Age of the Caliphates*, 210-47; Marshal Hodgson, *The Venture of Islam*, II: 32-9; Roy Mottahedeh, *Loyalty and Leadership in an Early Islamic Society*, Princeton University Press (Princeton, N.J., 1980).

<sup>94</sup> Fārūq ‘Umar, *al-Khilāfa*, II: 118.

<sup>95</sup> Wilferd Madelung, “The Assumption of the Title Shāhānshāh by the Būyids and ‘the Reign of the Daylam (Dawlat Al-Daylam),” *Journal of Near Eastern Studies* 28, no. 3 (July 1969): 168–83; E Eric J Hanne, *Putting the Caliph in His Place: Power, Authority, and the Late Abbasid Caliphate* (Madison, Nj: Fairleigh Dickinson University Press, 2007), 84.

<sup>96</sup>After Add al-Dawla passed away, his three sons, namely Samsam al-Dawla, Sharaf al-Dawla, and Bahā’ al-Dawla, were battling each other with the victory of the

This opened the chance for the Saljūqs to come to power and established a new dynasty. However, the weak position of caliphs remained the same.<sup>97</sup> The difference between encroachment against a caliph in the time of Buyids and Saljūqs is that in the latter dynasty the title of *sulṭān* was introduced, replacing *amīr al-umarāʾ*.<sup>98</sup> The returning hegemony of the *Saljūqs* made the control of a military commander over a caliph no

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latter in 398/1007. That civil war went hand in hand with the fact that the Buyids' territories split into three areas. Fārūq ʿUmar, *al-Khilāfa*, II: 116.

When al-Qādir (422/1031) became a caliph, he was strong enough. He was able to retake an authority of appointing successor ruler (*tawliya al-ʿahd*) and even determine who is a legitimate *amīr* among the conflicting warriors of the Buyids. Hanne, *Putting the Caliph*, 101; Madelung, "The Assumption", 183.

<sup>97</sup> Ibn Khaldun explains this complex political situation succinctly:

"The solidarity of the Arabs (*ʿaṣabiyya al-ʿarab*) had been ruined by the time of [caliph] al-Muʿtaṣim and his son, al-Wāthiq. Their authority over the government thereafter came with the help of non-Arab clients (*mawālī*) from Persian, Turks, Daylam, Saljūq, and other clients. Furthermore, the non-Arab governors usurp the provincial power from them. This eventually made the influence of the caliphate shrink, no longer extending beyond the realm of Baghdad. The Daylam then came along and finally took over Baghdad as well. The caliphs were subdued under their authority. However, their power also faded away, paving the path to the Saljuq to rule and control the caliphs." see, *al-Muqaddima*, I: 309.

However, it should also be noted that not all caliphs were weak. Three caliphs, namely: al-Mustarshid Billāh, al-Rāshid Billāh, and al-Muqtafi li Amrillāh resisted the hegemony of Saljūq. Al-Muqtafi, in particular, went to war with the Seljuqs and won. Fārūq ʿUmar, *al-Khilāfa*, II: 180-4.

<sup>98</sup> According to Ibn al-Athīr, the title *sulṭān* is already used by the Ghaznavids. The first ruler, Maḥmūd Ghaznā obtained the title from al-Qādir. However, J.H. Kramers and Bostworth opine this word is used much later as a formal title but projected back by historians like Ibn Athīr. There is no evidence that Maḥmūd refers to himself as a *sulṭān*. The material evidence, i.e., coin, suggests that the first ruler who used this title is Tughril Beg (d. 455/1063), the first leader of Saljūq Dynasty. It is very likely that the Saljūqs is the first time dynasty who made this title become formal for the sovereign authority who controls a caliph. It is also worth noting that at a given time, there were several *sulṭāns* in Saljūq political structure since it is used to refer to princes within the office. For the most sovereign one, they used the title *sulṭān al-muʿazzam*. J.H. Kramers and C.E. Bosworth, "Sulṭān," ed. P. Bearman, Th. Bianquis, C.E. Bosworth, E. van Donzel, W.P. Heinrichs., *Encyclopaedia of Islam, Second Edition*, accessed December 16, 2021, [https://doi.org/10.1163/1573-3912\\_islam\\_com\\_1115](https://doi.org/10.1163/1573-3912_islam_com_1115). See also, D. G. Tor, "Sultan," in *The Princeton Encyclopedia of Islamic Political Thought*, ed. Gerhard Bowering (Princeton and Oxford: Princeton University Press, 2012), 532-4.

longer an anomaly in Islamic political thought. As I will show below, some Muslim scholars considered those soldiers as *shawka* (the power) who could strengthen the legitimacy and authority of caliphs.<sup>99</sup>

The next part examines the discourse of four scholars living in the fourth and fifth centuries who responded to the above political turmoil.

### The Discourses of the Ulama

Before proceeding, one important phenomenon needs to be mentioned here. The Islamic political thought in the period after al-Jāhīz, particularly between the second half of the third century until the first half of the fourth century, witnessed the absence of any discussion on the usurpation of powers. Notable and famous theologians living in this period, such as al-Ash‘arī, al-Bāqillānī, al-Isfirāyinī, and Ibn Furak, whose thought heralded the rise of the Sunni theology (*kalām*), did not contribute to this issue in their works by theorizing and prescribing conflicts and usurpations of power in history.<sup>100</sup> Instead, they discussed the issue of the legitimacy of Abū Bakr and ‘Umar to respond to

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<sup>99</sup> Al-Juwaynī, in particular, requires that *ahl al-ḥall wa al-‘aqd* (committee of election) should be the holder of punitive power (*shawka*). See, Imām al-Ḥaramain Abū al-Ma‘alī al-Juwaynī, *Ghiyāth al-Umam fī al-Tiyāth al-Zulam*, 56-67. See, also Wael B. Hallaq, “Caliphs, Jurists and the Saljūqs in the Political Thought of Al-Juwaynī,” *The Muslim World* 74, no. 1 (January 1984): 33; Sohaira Zahid Siddiqui, *Law and Politics under the Abbasids: An Intellectual Portrait of Al-Juwayni* (Cambridge, United Kingdom; New York, USA: Cambridge University Press, 2019); 245.

In the same vein, al-Ghazālī maintains that a caliph must be powerful. He must be supported by *shawka* (army). In his time, he pronounces that the *shawka* is none other than the Turks (Saljūq). Abū Ḥāmid al-Ghazālī, *Faḍāih al-Bāṭiniyya*, ed. ‘Abd al-Raḥmān Badawī (Kuwayt: Mu‘assasa Dār al-Kutub al-Thaqāfiyya, n.d.), 182. In relation to the importance of *shawka* to bolster the legitimacy of an *imām*, al-Ghazālī also contends that *ahl al-ḥall wa al-‘aqd* could be only one person if this he is powerful or possessing *shawka* behind him. Al-Ghazālī, 176-7. See also Carole Hillenbrand, “Islamic Orthodoxy or Realpolitik? Al-Ghazālī’s Views on Government,” *Iran* 26 (1988): 81–94, <https://doi.org/10.2307/4299802>, 83.

<sup>100</sup> This is understandable given that they were writing theological treatises to defend Sunni belief against its opponents.

Shī‘a theological arguments. It seemed that in the political realm, they were more preoccupied with a sectarian debate with Shī‘i scholars. Other related issues, such as hegemony of the foreign commanders over the caliphs and the seize of local province, were not given attention as well. So far, the next scholar after al-Jāhīz who can be traced as having formulated a theoretical discourse on usurpation of power and the political turmoil mentioned above is Abū ‘Abd Allāh al-Ḥalīmī.

*Al-Ḥalīmī: The Defense of Legitimacy of an Existing Imām*

Abū ‘Abd Allāh al-Ḥalīmī lived between 338-403/949-1012. He was born in Gorgan, the southeast of Caspian Sea, but grew up in Bukhara. He lived during the period of the Samanid dynasty who ruled the Transoxiana, which spanned from Tabaristan, Khurasan, Samarkand, Bukhara, up to Kabul in Afghanistan now. In the biographical books, he was depicted as the leader of hadith scholars during his time in Bukhara.<sup>101</sup>

Despite his significant intellectual legacy, his name is not very popular among Sunni Muslims. This contrasts with jurists and theologians who lived before him who came from around the same region, such as al-Qaffāl, al-Isfirāyinī, al-Bāqillānī, and Ibn Furak. Likewise, there is hardly any scholarship in Western academia written on him until now. Therefore, what the editor of his book said four decades ago that he is a forgotten scholar in Islamic history still applies today.<sup>102</sup>

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<sup>101</sup> Al-Dhahabī, *Siyar A‘lām al-Nubalā’*, XVII: 231-4; Tāj al-Dīn al-Subkī, *Tabaqāt al-Shafī‘iyya al-Kubrā*, ed. Maḥmūd Muḥammad al-Ṭanāḥī and ‘Abd al-Fattāḥ al-Ḥalw (Faiṣal ‘Īsā al-Ḥalabī, 1964), IV: 334-43.

<sup>102</sup> Ḥilmī Muḥammad Fauda, “Muqaddima” (editor’s introduction), *Shu‘ab al-Īmān* (Dār al-Fikr), I: 8.

Al-Ḥalīmī writes a book entitled *Shu‘ab al-Īmān* in which he addresses both the theological and political issues.<sup>103</sup> His theoretical view on the usurpation of power is relatively more thorough than his predecessors and even scholars who lived after him.<sup>104</sup> What is unique about his position is his defense of the legality of an existing caliph against any act of usurpation, both in the caliph's office against him and in provinces against his appointed governors.

Besides in the specific topic of usurpation (*taghallub*), al-Ḥalīmī's discourse on usurpation of caliph position can be extracted from several issues, namely: (1) a plurality of caliphs at a given time; and (2) an installation of a contender caliph.

Al-Ḥalīmī unequivocally outlawed a contender caliph who refuted a legitimacy of an existing caliph. If this case is allowed, he contended, a conflict will definitely ensue. It contradicts the very philosophy of establishing a ruler, which is to solve the conflict, not to create it.<sup>105</sup> Another reason for the invalidity of the duality of a caliph is that a caliph's position is a continuation of the prophet's mission. The Prophet Muhammad was sent with a universal mission to entire regions, including areas separated by an ocean, to manage worldly and religious affairs. As there could be no other prophets besides him, likewise, there could also be no other caliphs besides the one already appointed earlier.<sup>106</sup>

In this regard, al-Ḥalīmī mentioned a specific case. If a caliph who lives in the East cannot handle political turmoil in the West, he is still a legitimate ruler anyway.

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<sup>103</sup> Fauda, the editor of the book, finds many similarities of theological ideas between this book and that of al-Bayhaqī (d. 458/1065) entitled *al-Jāmi‘ al-Muṣannaḥ fī Shu‘ab al-Īmān*. These similarities, he argues, imply that al-Bayhaqī copied al-Ḥalīmī, attributing the ideas to himself without giving credit to his predecessor. Fauda, “Muqaddima”, I: 9.

<sup>104</sup> Al-Ḥalīmī discusses the issue of *imāma* in chapter 49-54 in his book. See also, al-Sayyid, *al-‘Umma wa al-Jamā‘a wa al-Sulṭa*, 144.

<sup>105</sup> Al-Ḥalīmī, *Shu‘ab al-Īmān*, II: 154.

<sup>106</sup> Al-Ḥalīmī, *Shu‘ab al-Īmān*, II: 169.

Establishing a new caliph in the West, even though the caliph in the East is weak, is forbidden. It is against the very value of imamate in Islam, which is to unite people.<sup>107</sup> It seems that this statement is his stance on the establishment of the second Umayyad caliphate in Andalusia. He refuses to give legitimacy to this caliphate.

Al-Ḥalīmī continued his legal pronouncement. A contender caliph still could not be justified even though he is more powerful than an existing caliph.<sup>108</sup> Any policies he makes, for instance, appointing or dismissing a governor, is invalid. Therefore, the rulership of a caliph who made a contract with and received an oath of allegiance from *ahl al-ḥall wa al-ʿaqd* must prevail. As a consequence, military leaders and soldiers must also obey him. Even if an existing caliph lacks a coercive authority, meaning military power, he is still a real ruler. This is because what gives a rulership a legal status is the contract made beforehand.<sup>109</sup> Therefore, al-Ḥalīmī argues, being *al-qāhir* (military powerful) is not a requirement in any condition for someone to count as a legitimate caliph.<sup>110</sup>

The very evidence for this theory is the Prophet Muhammad's political story. Before the migration, he was a weak political leader who had not yet reached a complete political power. However, with the lack of military power, he was still authoritative among his followers. For instance, in the Makkan period, the Prophet had already sent a Muṣʿab ibn ʿUmar to spread Islam in Yathrib. This was effective because people obeyed him.<sup>111</sup> Therefore, al-Ḥalīmī contended, an authority of a ruler comes from people's obedience and absence of any willingness to overthrow him, not from possessing a

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<sup>107</sup> Al-Ḥalīmī, *Shuʿab al-Īmān*, II: 159.

<sup>108</sup> Al-Ḥalīmī, *Shuʿab al-Īmān*, II: 157.

<sup>109</sup> Al-Ḥalīmī, *Shuʿab al-Īmān*, II: 157.

<sup>110</sup> Al-Ḥalīmī, *Shuʿab al-Īmān*, II: 159. Cited in al-Sayyid, *al-Umma*, 159.

<sup>111</sup> Al-Ḥalīmī, *Shuʿab al-Īmān*, II: 160



military support to him.<sup>112</sup> If people disobeyed him, they would impede an imamate from being upheld.<sup>113</sup> Accordingly, if they abandon a ruler whom they already gave consent and made a contract and shift to a new ruler instead, they deserve the label of “rebels” (*kānū khārijīn ‘ala al-imām*).<sup>114</sup>

Al-Ḥalīmī’s direct discussion of the issue of usurpation is as follows. He began by stating that what matters in *imāma* is a contract, not an *imām*’s fame.<sup>115</sup> If, al-Ḥalīmī uses a hypothetical language, a person conquers a land and forces its people to obey him, his claim as an *imām* is rejected (*fahuwa radd*). This is also the case even if this person carries out his religious duties, such as collecting *zakā* (alms) and *jizya* (tributes), giving livelihood for orphans, and solving a conflict between people.<sup>116</sup> However, if he has a military power that backs him up, which outweighs or is close to an existing *imām*’s power, his political excuse to make such a claim as an *imām* is accepted.<sup>117</sup> His policy and that of his administrative staff are not rejected as long as he does not abolish the policies of an existing *imām*. However, if his power is weaker than a legitimate *imām*, his political conduct is not accepted.<sup>118</sup> Therefore, what determines an acceptance of this contender is not solely his political excuse (*ta’wīl*). It is only an additional factor. What is more important is his military power (*quwwa*) to retain his claim. However, with regard

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<sup>112</sup> “*liannahu bi ṭā ‘atihim yaṣīr imāman au bi ṭā ‘atihim yaṣīr lahu qāhīran*”. Al-Ḥalīmī, *Shu‘ab al-Īmān*, II: 159.

<sup>113</sup> “*fahum idhan yamna ‘ūn al-imāma an tuthbat lahu li’annahum yadfa ‘ūn ‘an imāma bā’ina*”. Al-Ḥalīmī, *Shu‘ab al-Īmān*, II: 159.

<sup>114</sup> Al-Ḥalīmī, *Shu‘ab al-Īmān*, II: 159.

<sup>115</sup> Al-Ḥalīmī, *Shu‘ab al-Īmān*, II: 156: “*innahu yaṣīr imāman bi an yu‘qad lahu*”. Cited in, al-Sayyid, *al-Umma wa al-Jamā‘a*, 145.

<sup>116</sup> Al-Ḥalīmī, *Shu‘ab al-Īmān*, II: 178.

<sup>117</sup> “*fa in tasāwat quwwatum quwwa al-imām al-‘ādil au qāraba fa qad thabata lahum al-ta’wīl*”. Al-Ḥalīmī, *Shu‘ab al-Īmān*, II: 178.

<sup>118</sup> “*Fa in lam yakun lahum ma ‘ā hazā quwwa bi al-‘imām al-‘ādil wa anṣāriḥ, fa lā ḥukm li ta’wīlihim*.” Al-Ḥalīmī, *Shu‘ab al-Īmān*, II: 178.

to the legitimate *imām*, another maxim applies. His legitimacy is what matters, regardless he has the power to back him or not. He is still *imām* even though he is weak. His strength is only a factor to allow him to fight rebels or not, not a factor for his *imāma* valid or not.<sup>119</sup>

It is important to highlight that there is a serious effort not to be a submissive to empirical reality in al-Ḥalīmī's discourse. In other words, al-Ḥalīmī does not only justify what happens in a political field but also prescribes it. This stance contrasts with that of Aḥmad, which I have previously discussed. The latter does not problematize the legitimacy of a usurper and, instead, accepts his rulership out of hand. Al-Ḥalīmī accepts an objective reality but refuses to legitimize it. In this regard, al-Ḥalīmī's position seems closer to that of al-Jāḥiẓ who accepts a usurpation because of lacking the ability to resist it.

While al-Jāḥiẓ did not discuss the issue of local seizure, al-Ḥalīmī examines it thoroughly. He is most likely the first scholar who put this issue in imamate discourse. Therefore, Gibb has been incorrect for contending that al-Māwardī is the first scholar who addressed usurpation by *amīr*.<sup>120</sup> Al-Ḥalīmī's discussion of local seizure involves several cases.

First, if a person ousts a local ruler (an *amīr*) designated by an *imām*, this person is considered a usurper, rebel, and dissident.<sup>121</sup> This is particularly the case if an ousted *amīr* is capable, meaning someone who fulfills the fundamental requirements for being

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<sup>119</sup> “*innamā u ‘tubirat quwwah al-imām wa ḍa ‘fihi fī ijāza al-taṣarrufāt li al-bāghī wa raddiha, lā fī ithbāt al-imāma lahu bi ghalabatihī au daf’ihā*”. Al-Ḥalīmī, *Shu ‘ab al-Īmān*, II: 178.

<sup>120</sup> Gibb, “Constitutional Organization,” 19.

<sup>121</sup> “*fa al-mutaghallib bāghin khārijī*”. Al-Ḥalīmī, *Shu ‘ab al-Īmān*, II: 168.

an *amīr*.<sup>122</sup> This illegitimacy stems from his act of establishing himself without a mandate from an *imām*. If, however, an ousted *amīr* is an unqualified person, an *imām* also made attempts to give him advice, and he remains in the same condition; a usurper is not considered a rebel against *imām*.<sup>123</sup> Al-Ḥalīmī then continues, if the capacity of ousted *amīr* is unknown, this act of usurpation is considered illegal. Therefore, a usurper is deemed as a rebel.<sup>124</sup>

This pronouncement indicates that he differentiates between usurpation and rebellion. A usurper is not always a rebel. A usurper becomes a rebel if he ousts a capable governor or a governor whose rulership is unknown. However, if he removes an incapable one, an act of usurpation is not rebellion, and therefore it is valid. It seems that usurper is a neutral appellation and does not carry any moral judgment in and of itself for al-Ḥalīmī. It is rebellion that constitute negative political conduct and deserve moral ethical evaluation. This also means that al-Ḥalīmī tries to balance in his discourse between a formal appointment of an *amīr* by an *imām* and personal qualities of an *amīr*. The legitimacy of a local usurper is determined by these two aspects altogether.

Second, this a complex scenario, a usurpation occurs when people are heedless (*ghafala al-nās*), a situation on which they do not have an *imām*, whereas those who can be a committee of a selection of an *imām* (*ahl al-ḥall wa al-‘aqd*) exist. If a person conquers a particular land and establishes himself as an *amīr* and people of that land accept him, he and people of the land are considered rebels alike (*bughāt*). If people are unable to select an *imām* for certain legitimate reasons, and also this local usurper is a

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<sup>122</sup> Al-Ḥalīmī, unfortunately, does not specify what he means by being capable (*yasluhu*) for an *amīr* or what those requirements are.

<sup>123</sup> “*fa al-mutaghallib laysa bi khārijī*”. Al-Ḥalīmī, *Shu‘ab al-Īmān*, II: 169.

<sup>124</sup> “*fa al-mutaghallib khārijī*”. Al-Ḥalīmī, *Shu‘ab al-Īmān*, II: 169.

just person, he is allowed to be in that position. He can also appoint staff at certain administrative positions (*tawallā wa wallā*). If he is a just person but not knowledgeable, he must carry out *mashūra* (consultation) to be an *amīr*.<sup>125</sup>

Third, if people of a land appoint an *amīr* while an *imām* is absent, if people of election happen to select an *imām* later, the *amīr* which people of the land has appointed has to obey the new *imām*. If he disobeys, he is considered a rebel (*bāghī*). If the new *imām* appoints another person as an *amīr* and replaces the one people choose, they must also accept this assignment. They must shift their obedience to the new *amīr*.<sup>126</sup>

Fourth, this is a condition in which a person conquers a land, ousts its *amīr*, and uses coercive power to compel people to admit him as a new *amīr*. Having done so, people still dislike him. If they dislike this usurper because he is not capable of being an *amīr*, their stance is legal (*fahum ma 'dhūrūn*). As such, an *amīr* himself is considered a rebel.<sup>127</sup> Suppose they dislike this *amīr* for an unacceptable reason, while he is a capable person (*man yashuḥ lahā*), and to maintain stability and execute God's rulings. In that case, he forces people to admit him, what he does is considered legal.<sup>128</sup>

Several general assessments about al-Ḥalīmī's discourse can be made from the above observation. First, the center of his political theory is a contract and legitimacy of an existing *imām*. In this regard, al-Sayyid is correct when he labels al-Ḥalīmī as belonging to the stream of legitimacy in Islamic political tradition.<sup>129</sup> However, it is also remarkable that he is not always strict with this concept. Under certain conditions, he is also realistic. He is willing to concede if a usurper is supported by military power. In the

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<sup>125</sup> Al-Ḥalīmī, *Shu'ab al-Īmān*, II: 176.

<sup>126</sup> Al-Ḥalīmī, *Shu'ab al-Īmān*, II: 177.

<sup>127</sup> Al-Ḥalīmī, *Shu'ab al-Īmān*, II: 177.

<sup>128</sup> Al-Ḥalīmī, *Shu'ab al-Īmān*, II: 177.

<sup>129</sup> Al-Sayyid, *al-Umma*, 144.

meantime, his policies in implementing Islamic law does not need to be annulled. Only his legitimacy of usurpation is rejected. The other side of this observation indicates that jurists did care about the issue of political legitimacy. This contrasts with Azmeh's contention saying that "...Muslims jurists were writing thoroughly legalistic works, and technical legalistic questions of legitimacy were largely irrelevant to the socio-historical dynamics of society."<sup>130</sup>

Second, people's opinion does not matter in al-Ḥalīmī's discourse. Again, this is because his theory revolves around a ruler. If what people choose contradicts an *imām*'s choice, the latter is established. In another word, what is legitimate in al-Ḥalīmī's discourse is what an *imām* decrees, not what people desire.<sup>131</sup>

Third, the nature of al-Ḥalīmī's writing is prescriptive. He wanted to manage and direct the political realities of his time according to the rules of legitimacy. He does not want to justify the political practices of people at his time, but to remedy them instead. He prescribes an *amīr* through his discourse on a local seizure. Likely, he does so to respond to the establishment of the two dynasties in the Transoxiana region, which are the Samanids and the Ziyarids. He wanted to delegitimize those independent dynasties who appoint their *amīrs* without an *imām*'s consent. He wanted them to recognize the supremacy of an *imām*.

Not only *amīr*, al-Ḥalīmī also prescribes an *imām*. This is clear in his statement in which he says it is illegal (*ghayr nāfidh*) for an *imām* to withdraw from his office without designating a successor. It will only create a cleavage among people.<sup>132</sup> It seems that this statement was based on his knowledge of many political conflicts occurring in

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<sup>130</sup> Cited in Abou El Fadl, *Rebellion and Violence*, 158; 17.

<sup>131</sup> Michael Cook contends that in the issue of forbidding wrong, al-Ḥalīmī is "strongly accommodationist" to rulers. See, Cook, *Commanding Right*, 341.

<sup>132</sup> Al-Ḥalīmī, *Shu'ab al-Īmān*, II: 169.

the Abbasids history before his period. In the third century, two caliphs passed away without appointing a successor, namely al-Wāthiq (d. 232/847) and al-Muktafi (d. 295/907). The first case caused the increasing domination of a foreign military commander in politics. In fact, the caliph after al-Wāthiq, al-Mutawakkil (d. 247/861), was appointed and murdered by a Turkic military general. The second case also caused the same issue. It attracted a Turkic army to return to the political arena after several decades remained in a barrack and played no role in selecting caliphs.<sup>133</sup> All of these happened before al-Ḥalīmī's time and become moral lesson for him.

Fourth, his discourse on acceptance of usurpation is swinging between capability or probity of usurper and possession of military power. In order to be accepted, a usurper must hold both at his hand. Legitimacy of usurpation does not depend on an appointment or consent of an *imām*. The latter must submit to and authorize a rulership of usurper if he is capable and supported by an army.

Lastly, it is also worth noticing that al-Ḥalīmī's overall writing on the usurpation of power is purely theoretical. He does not make any opinion regarding the historical practices of usurpation of power.

The following section will explain the discourse of al-Qāḍī 'Abd al-Jabbār. He returns to a tradition in the second and third centuries of assessing the early practice of usurpation of power.

#### *Al-Qāḍī 'Abd al-Jabbār and the Recalling of the Historical Usurpation*

Al-Qāḍī (the Judge) 'Abd al-Jabbār is a Mu'tazila theologian who lived between 359-415/969-1025 during the Buyid occupation of Baghdad. He must have also known prolonged political turmoil before the advent of these Daylamis armies. He was a Persian

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<sup>133</sup> Fārūq 'Umar, *al-Khilāfa*, II: 55-56.

scholar living in Hamadan, located in West Iran now. During his carrier as a judge and theologian, he used to have a good relationship with the Buyids' *amīr al-umarā'* and *wazīr*. Later on, he was imprisoned during the period of Fakhr al-Dawla.<sup>134</sup> 'Abd al-Jabbār lived in the decline period of Mu'tazila. In fact, he is a scholar who tried to revive Mu'tazila's legacies after being banned and considered a heretic by caliph al-Mutawakkil (d. 247/861), a century and a half earlier. He is well known as a follower of a stream of Bahshāmiyya (Abū 'Alī and Abū Hashīm al-Jubā'ī) within Mu'tazila school and a compiler of these two scholars' theological opinions. 'Abd al-Jabbār writes a specific treatise that defends the school from its critics and explains some misunderstandings and stigmas from other schools. In this regard, he shares a similarity with al-Jāhīz in which both compose a book on Mu'tazila's methodology in *kalām* (theology).<sup>135</sup>

'Abd al-Jabbār 's discourse on the usurpation of power is not as elaborated as that of al-Ḥalīmī. He is more interested in addressing the historical actions of usurpation of power instead of theorizing them. Furthermore, he does allude to the issue of seizure of province and overthrowing a caliphate by foreign military commanders. In the last two volumes of his book *al-Mughnī*, which consists of twenty volumes, besides expounding the general issues of *imāma*,<sup>136</sup> he speaks more about the long past

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<sup>134</sup> According to the biographical book, he went to prison for refusing to pronounce the *tarāhum* (respect) for the deceased Buwaihiyah Minister, namely of al-Ṣāḥīb Ismā'il ibn 'Abbād al-Talaqānī. However, according to Reynolds, he went to jail for opposing Fakhr al-Dawlah. Gabriel Said Reynolds, "The Rise and Fall of Qadi Abd Al-Jabr," *International Journal of Middle East Studies* 37, no. 1 (February 2005): 3, <https://doi.org/10.1017/S0020743805050026>.

<sup>135</sup> While al-Jāhīz writes *Fadīla al-Mu'tazila*, 'Abd al-Jabbār writes *Faḍl al-I'tizāl wa Tabaqāt al-Mu'tazila*. See, Abū al-Qāsim al-Balkhī, al-Qāḍī 'Abd al-Jabbār, and al-Ḥakīm al-Jashmī, *Faḍl al-I'tizāl wa Tabaqāt al-Mu'tazila* (Beirut: Dār al-Farābī, 2017).

<sup>136</sup> In this volume, he talks about a wide range of issues regarding *imāma* such as the obligatory character of *imāma* based on textual evidence (*dalīl sam'īy*), refutation to the concept of designation by Shī'a, legitimacy of the imamate of both Abū Bakr and 'Umar, and *afḍaliyya* 'Alī from other companions.

phenomenon, which is the usurpation of ‘Alī's power by Mu‘āwiya. In this part, I describe ‘Abd al-Jabbār's stance on the matter. Before doing so, I try to extract his discourse on the theoretical aspect of usurpation from his discussion on another related subject: a deposition of an *imām* and the existence of multiple *imāms* at a given time.

The Judge pronounces that an *imām* must be a person with integrity. If he becomes reprobate (*fāsiq*), whether in terms of his actual conduct or his belief (meaning believing in heterodox doctrine), and this corruption is apparent among people, he can be deposed from his position.<sup>137</sup> Thus, for ‘Abd al-Jabbār, ousting a corrupt *imām* is not part of the illegal practice of usurpation of power. However, the mechanism to take down a wicked ruler is entirely left unanswered. Moreover, in the absence of a candidate from the Quraish tribe who meets all the requirements to be an *imām*, the Judge contends that a military commander (*amīr*) can handle this position. This situation is better than having a caliph suffering from the problem of morality.<sup>138</sup> In any condition, people cannot rely on corrupt rulers even though they are from the Quraish.<sup>139</sup> It seems, for ‘Abd al-Jabbār, this situation does not count as usurpation.

His discussion of multiplicity can also indirectly reflect his view on the usurpation of power. He maintains that it is not allowed in Islam to have more than one *imām*. He bases this conviction on textual evidence (Quran and hadith) and the companions' consensus.<sup>140</sup> If there is a dire need for an *imām* to handle difficulties, another person who can help him is enough to be a chief commander instead of having

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<sup>137</sup> ‘Abd al-Jabbār, *al-Mughnī*, I: 203, II: 170.

<sup>138</sup> “*wa jumla al-qaul fī dhālika anna kulla shartīn fī imām lau faqada ṣaluḥa an yakuna amīran yaqūmu bimā ilā al-imām ...fa lihādhā al-jumla yajib naṣb al-imām fī ghair quraish idhā lam yūjad fihim*”. ‘Abd al-Jabbār, *al-Mughnī*, I: 241.

<sup>139</sup> ‘Abd al-Jabbār, *al-Mughnī*, I: 228.

<sup>140</sup> ‘Abd al-Jabbār, *al-Mughnī*, I: 243.



two *imāms*.<sup>141</sup> The illegality for establishing a second *imām* also applies to lands far away from a center of a caliphate.<sup>142</sup> Other thinkers living in the same period, such as al-Baghdādī (428/1037) and al-Juwaynī (478/1085), allow this multiplicity to take place as long as the contender makes his claim in a land far away from an existing caliph.<sup>143</sup>

‘Abd al-Jabbār states his detailed view on usurpation when discussing the issue of the legitimacy of Mu‘āwiya who took over the power from ‘Alī. Mu‘āwiya for ‘Abd al-Jabbār has committed deception and usurpation.<sup>144</sup> For all he has done to ‘Alī, the Judge contends that Mu‘āwiya deserves to be called a rebel (*al-bāghī*).<sup>145</sup> Ali was elected by the consensus of the companions after the death of ‘Uthmān. No one dissented from having him as a new leader of believers.<sup>146</sup> In fact, ‘Alī is the most meritorious (*afḍal*) companion of the prophet.<sup>147</sup> Mu‘āwiya, on the other hand, is a corrupt person (*fāsiq*).<sup>148</sup> Quoting a report from Ibn ‘Abbās, ‘Abd al-Jabbār even says that there are some elements of infidelity (*ba‘ḍ khiṣāl al-kufr*) in him.<sup>149</sup> The reason for this is that he waged war against ‘Alī. On another occasion, repeating a pronouncement in a more confident tone, ‘Abd al-Jabbār contends that there is a possibility that Mu‘āwiya is truly infidel.

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<sup>141</sup> ‘Abd al-Jabbār, *al-Mughnī*, I: 245.

<sup>142</sup> ‘Abd al-Jabbār, *al-Mughnī*, I: 246.

<sup>143</sup> ‘Abd al-Qāhir al-Baghdādī, *Kitāb Uṣūl al-Dīn*, 274; al-Juwaynī even claimed this is also the position of al-Ash‘arī. See, *Ghiyāth al-Umam*, 128-9.

<sup>144</sup> “*wa annahu kāna yasluk ṭarīqa al-mughālaba wa al-mukhāda ‘a...ākhidhan fī tarīqa al-taghallub wa al-mulk*”, ‘Abd al-Jabbār, *al-Mughnī*, II: 147.

<sup>145</sup> ‘Abd al-Jabbār, *al-Mughnī*, II: 93.

<sup>146</sup> ‘Abd al-Jabbār, *al-Mughnī*, II: 65-68.

<sup>147</sup> ‘Abd al-Jabbār, *al-Mughnī*, II: 122.

<sup>148</sup> ‘Abd al-Jabbār, *al-Mughnī*, II: 71.

<sup>149</sup> ‘Abd al-Jabbār, *al-Mughnī*, II: 70.

There is a report that Mu‘āwiya sent idols to Rome's rulers to please them. Also, because he killed innocent people whom, unfortunately, ‘Abd al-Jabbār does not specify.<sup>150</sup>

For way Mu‘āwiya achieved his power; ‘Abd al-Jabbār declares that his rulership is invalid. The fact that he is a companion and the prophet’s secretary in writing the Quran does not mean anything.<sup>151</sup> In addition, those who claim that his *imāma* is accepted as a consensus of the companions have been wrong. If such a thing as consensus truly existed, it was based on coercion (*‘alā sabīl al-qahr*).<sup>152</sup> The Judge proceeds, battling against Mu‘āwiya as a usurper, therefore, is allowed.<sup>153</sup>

This critical outlook of ‘Abd al-Jabbār toward Mu‘āwiya reminds us of the same stance of al-Jāhīz, his predecessor in Mu‘tazila who lived a century and a half ago. This indicates that he builds his idea upon the methodological tendency and legacy of Mu‘tazila prior to him. Therefore, it is safe now to say that this has been the standard view of Mu‘tazila in the latter period. Despite this similarity, however, both still differ in one important aspect, namely that ‘Abd al-Jabbār does not articulate thorough theoretical discourse on the usurpation of power. He ignores the issue of local seizure and domination of sultān over caliph which have become a reality in his time. It seems that the reason for such a negligence is that those two issues have never entered the discursive tradition of Mu‘tazila school. A scholar’s discourse has always been determined by his affiliation and commitment to his school’s tradition.

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<sup>150</sup> ‘Abd al-Jabbār, *al-Mughnī*, II: 71.

<sup>151</sup> ‘Abd al-Jabbār, *al-Mughnī*, II: 72

<sup>152</sup> ‘Abd al-Jabbār, *al-Mughnī*, II: 293.

<sup>153</sup> ‘Abd al-Jabbār, *al-Mughnī*, II: 93-94.

After being missing in ‘Abd al-Jabbār’s ideas, the tendency of abstracting political events into political theory returns in the discourse of al-Māwardī, which I examine in the next section.

*Al-Māwardī: Accepting Control of Executive Power and Local Seizure*

Abū Ḥasan al-Māwardī was born in Baṣra in 364/972 and passed away in 450/1058 in Baghdad, 15 years after the death of ‘Abd al-Jabbār and 42 years after al-Ḥalīmī. Besides being a jurist of Shāfi‘ī *madhhab*, he is also well known as a chief judge (*qāḍī al-quḍā*) of the Abbasids for his time.<sup>154</sup> There has been a debate among modern scholars whether he is a follower of Mu‘tazila or Ash‘ariyya in theology.<sup>155</sup> Living very long, al-Māwardī had a chance to witness three reigns of the Abbasids caliphs, namely al-Tā‘ī lillāh (d. 363-381/973-991) who was deposed by *amīr al-umarā*’ of the Buyids Baha Dawla (d. 402/1012), al-Qādir Billāh (381-422 H/991-1030), and al-Qā‘im bi Amrillāh (422-467/1030-1074) who invited and welcomed the Saljuqs.

Al-Māwardī lived in a challenging and tumultuous period. He observed the increasing hegemony of the Buyids in the political arena to the extent that they could oust a caliph. He also saw their heated internal conflict, which eventually paved the way for the caliphs to regain their political power. Finally, al-Māwardī witnessed the conflict between the Buyids and the Saljūqs. In this conflict, he was appointed as a mediator

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<sup>154</sup> Mehmetcan Akpınar, “Mawardi (974-1058),” in *The Princeton Encyclopedia of Islamic Political Thought*, 331-2.

<sup>155</sup> ‘Imāra categorizes him as a Mu‘tazila scholar relying on the report from Ibn Salāḥ and his style of writing, which usually avoid naming Mu‘tazila scholars and mention them as “scholar of Baṣra” instead. ‘Imāra, *al-Islām wa Falsafa al-Ḥukm*, 200. On the other hand, Ridwan Sayyid counts him as a Asha‘ri scholar. Al-Sayyid, *al-Jamā‘a wa al-Mujtama*’, 275. Hanna Mikhail maintains a different view saying that al-Māwardī is a free thinker, neither Ash‘arī nor Mu‘tazilī. See, Hanna Mikhail, *Politics and Revelation*, xxxi.

between *amīr al-umarā'* Jalāl al-Daula on the one hand and the leaders of the Saljūqs who coalesced with the caliph al-Qaem on the other hand.<sup>156</sup> His attempt to mediate both parties failed. The conflict ended up with the victory of the latter over the former. The Seljuq reigned from 447/1055 to 548/1143 from Transoxiana, Anatolia, Syria, and Hijaz.<sup>157</sup> Al-Māwardī had three years living under this Turkic regime before his death.

In his book *al-Aḥkām al-Sulṭāniyya (the Ordinances of Sultanate)*, al-Māwardī does not discuss the historical acts of usurpation in early Islam. In other words, he examines the topic of usurpation of power at a theoretical and abstract level. It is worth mentioning that al-Māwardī gives attention to the whole phenomena associated with the usurpation of power, namely domination over an *imām* by an *amīr*, local seizure, and capture as well as a removal of a caliph by his enemy. The examination of his ideas is as follows.

As I have described earlier, a phenomenon of hegemony of foreign military commanders over caliphs had long lasted in the Abbasids' office. However, no scholars had mentioned this problem in their political treatises until the middle of the fourth century. Al-Māwardī is the very first person who theoretically alludes to and recognizes this phenomenon in his imamate discourse. He positions a discussion of control over an *imām*, which he calls *al-ḥijr*, in the topic of "things that cancel rulership of an *imām*".<sup>158</sup> In general, two things could make a ruler lose his rulership: becoming corrupt and

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<sup>156</sup> Abū al-Faraj 'Abd al-Raḥmān Ibn al-Jauzī, *Al-Muntaẓam fī Tārīkh al-Mulūk wa al-Umam*, ed. Muḥammad 'Abd al-Qādir 'Aṭā and Muṣṭafā 'Aṭā (Beirut: Dār al-Kutub al-Ilmiyya, 1995); vol. XV: 285-6. Akpınar, "Mawardī", 331-332; C. Brockelmann, "Al-Mawardī," ed. P. Bearman et al., *Encyclopaedia of Islam, Second Edition*, accessed December 17, 2021, [https://doi.org/10.1163/1573-3912\\_islam\\_com\\_0713](https://doi.org/10.1163/1573-3912_islam_com_0713).

<sup>157</sup> C.E Bosworth et al., "Saljūkids," in *Encyclopaedia of Islam, Second Edition*, ed. P. E. Bearman et al., accessed December 17, 2021, [http://dx.doi.org.ezproxy1.lib.asu.edu/10.1163/1573-3912\\_islam\\_COM\\_0984](http://dx.doi.org.ezproxy1.lib.asu.edu/10.1163/1573-3912_islam_COM_0984).

<sup>158</sup> Al-Māwardī, *al-Aḥkām al-Sulṭāniyya*, 24-29.

physically weak. The latter consists of sensory defects, lack of limbs, and a loss of freedom of action. Being controlled is considered part of losing freedom of action (*naqs taṣarruf*).

Al-Māwardī defines *al-ḥijr* in the following way: “A group of people from a caliph’s staffs, who is in charge of an executive office, control a caliph, [and as long as] they do not openly transgress Islamic rulings and commit violence, their rulership is not aborted, and the validity of their authority is still valid.”<sup>159</sup>

Al-Māwardī does not specify who those people sitting in the executive office are. From the historical context, one can know that they are none other than *amīr al-umarāʾ* (military commanders) who, for the last two hundred years, were coming from either Turk or Persian ethnic groups. He pronounces that this act of control does not abolish an *imām*’s rulership. This statement applies with a condition, however. A validation of this position depends on another factor: running errands based on religious rulings (*aḥkām al-dīn*) and justice requirements (*muqtaḍā al-ʿadl*). If they violate these two conditions, causing corruption among people, it becomes forbidden to establish their rulership. People must strive with their utmost effort to end their usurpation of a caliph’s power.<sup>160</sup>

Several things from the above description are essential to highlight. Al-Māwardī does not require those who control a caliph to respect him and preserve his executive jobs. Therefore, he does not object to an act of taking over duties that are supposed to lie at a caliph’s hand. He does not attempt to stop the degradation of a caliph’s role and, instead, leaves him only sitting in a symbolic position. Furthermore, al-Māwardī does not problematize historical practices of *amīrs* deposing caliphs, including caliph al-Tāʾiʿ,

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<sup>159</sup> “*an yastauliya ʿalaihi min aʿwānihi man yastabidd bi tanfidh al-Jumūr min ghair tazāhur bi maʿmasiya wa lā mujāhara bi mashaqqa, fa lā yamna ʿdhālika min imāmatihī wa lā yaqdaḥ fī ṣiḥḥa wilāyatihī*”. Al-Māwardī, *al-Aḥkām al-Sulṭāniyya*, 27.

<sup>160</sup> Al-Māwardī, *al-Aḥkām al-Sulṭāniyya*, 27-28.

who passed away only shortly before he was born. He accepts a fact a lessening role and authority of caliphs. It seems for al-Māwardī that there is no more point to reverse history. He does not want to change and direct this reality. Only on one issue, he demonstrates a rejection. He objects to justifying the usage of titular *mālik al-mulk* or *shahanshah* (king of the kings) by *amīr* Jalāl al-Daula. He contends that this word only suits God.<sup>161</sup> However, he does not allude to this incident in the *al-Aḥkām*.

Another thing worth noticing is conditions al-Māwardī put for controllers of a caliph to implement Islamic rulings. If they do not accept this requirement or fail to fulfill it, they must be replaced. In al-Māwardī's political thought, therefore, at stake is not a supremacy of a caliph but rather an implementation of sharia.<sup>162</sup>

Another topic he addresses is the issue of local seizure (*imāra al-istilā'*), where a military soldier occupies territory and appoint himself as a local ruler without a mandate from an *imām*. Al-Māwardī is the first scholar who justifies this act and considers it a second mechanism to establish a governorate. The first mechanism is a designation of from either an *imām* or *wazīr* (*imāra al-istikfā'*).<sup>163</sup> The difference between these two kinds of *imāra* (governorate) is that the second is only valid to the seized territory. In contrast, the first is established for areas stated in his contract with an *imām*. Al-Māwardī deems the second mechanism acceptable even though "it deviates from the formal methods (*shadhdha 'an al-uṣūl*)" and "out of ordinary custom (*kharaja 'an 'urf*

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<sup>161</sup> Regarding the use of this titular, see Ibn al-Jauzī, *al-Muntaẓam*, vol. XV: 264-5. See also, Aḥmad Mubārak al-Baghdādī, "editor introduction", in *al-Aḥkām al-Sulṭāniyya*, ٢٢

<sup>162</sup> Crone, *God's Rule*, 233; Feldman, *The Fall and Rise*, 27-35.

<sup>163</sup> The tasks of an *amīr* appointed by an *imām* include organizing troops and deploying them in different areas, appointing a provincial judge, collecting taxes, alms, and appointing an officer in charge of them, defending the faith and protecting religious rulings from heresy, applying criminal laws, leading prayers, organizing *ḥajj*, and fighting against enemies. Al-Māwardī, *al-Aḥkām al-Sulṭāniyya*, 40.

*al-taqlīd*)”.<sup>164</sup> He does not suggest retrieving that conquered territory and installing an *imām*'s personal choice.

Al-Māwardī uses a logic of necessity (*darūra*) in Islamic law as a ground to accept this phenomenon. This logic means that this mechanism should be refused in a normal condition. Only in an exceptional situation, it becomes legal. It seems that he makes this pronouncement because a caliph by his time is militarily too weak to regain a conquered territory.

Just like the issue of control over a caliph, in this matter, al-Māwardī puts several conditions to accept a governorate of a local usurper (*amīr mustawī*). Those conditions are: 1) To guard a caliph's position as a successor of prophetic mission and administrator or religious affairs, 2) to obey a caliph, 3) to embrace and unite each other in Muslim affairs, 4) to not abolish ongoing contracts among Muslims, 5) to collect alms, 6) to apply criminal laws, and 7) to keep away from things are forbidden by God. If they could fulfill these seven requirements, a caliph must approve their local usurpation (*wajab taqlīd al-mustawī*). Even if a usurper is a person who does not qualify, a caliph must still admit him. In this regard, a caliph must appoint a deputy for himself. This deputy will be a daily and actual executor of administration affairs.<sup>165</sup>

The next related issue is captivity of an *imām* by his enemy (*al-qahr*). Unlike two previous issues where he tends to be permissive, in this regard, he has a more reserved position. He maintains that people must work hard to release a kidnapped *imām*, either with ransom or war. If an *imām* is held captive by an infidel, and there is no hope to release him, people must select a new *imām*. If he is detained by Muslim rebels (*ma'sūran ma'a bughā al-muslimīn*) and they do not appoint a new *imām*, the rulership

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<sup>164</sup> Al-Māwardī, *al-Aḥkām al-Sulṭāniyya*, 45-6.

<sup>165</sup> Al-Māwardī, *al-Aḥkām al-Sulṭāniyya*, 45.

of a kidnapped *imām* still prevails. As an alternative, *ahl al-ikhtiyār* must appoint a daily executor (*nāẓir*).<sup>166</sup> If those rebels select a new *imām* followed by an oath of allegiance, rulership of the kidnapped *imām* is void. In this regard, *ahl al-ikhtiyār*, in a land not conquered by rebels (*dār al-‘adl*) must select a new *imām*.<sup>167</sup> The contender *imām*, in any case, will never be legitimate. In this scenario, al-Māwardī shows a propensity to retain the legitimacy of an existing *imām* and stick with an official contract.

Based on the above observation, it becomes evident that in general, al-Māwardī's discourse on the usurpation of power particularly in *al-Aḥkām* is descriptive and prescriptive at the same time. His proclivity toward description can be seen in his acceptance of control of an *amīr* over an *imām* and local seizure which had been historical facts for at least a century. Al-Māwardī himself reveals in the introduction of *al-Aḥkām* that he writes the book as a fulfillment of the caliph's order. He wanted to introduce to the caliph the opinions of scholars before him on imamate.<sup>168</sup>

Al-Māwardī position is prescriptive on two aspects: when he obliges local usurpers to apply Islamic laws and admits an existing caliph, and when he refuses to legitimize a claim of imamate of rebels who detain him an existing *imām* and install their own. For the first reservation, it can be said that al-Māwardī's political discourse prioritizes the implementation of Islam. It is law that is important to him than the authority of any person in politics. To do so, he is willing to concede by minimizing a role of an *imām*. For the second reservation, his idea associates with a Shāfi‘ī jurist before him, namely al-Ḥalīmī, who retain the idea of legitimacy in politics. Both belong to the stream of legitimacy (*tayyār al-shar‘iyya*) in Islamic political thought when it comes to

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<sup>166</sup> Al-Māwardī, *al-Aḥkām al-Sulṭāniyya*, 28.

<sup>167</sup> Al-Māwardī, *al-Aḥkām al-Sulṭāniyya*, 29.

<sup>168</sup> Al-Māwardī, *al-Aḥkām al-Sulṭāniyya*, 1.



the issue of usurpation of caliph's power. In this regard, Gibb's contention that al-Māwardī's legitimization of political reality causes the Sharia to crash down is untenable.<sup>169</sup>

The next section examines the position of al-Juwaynī, who concedes many more aspects in imamate discourse to legitimize the usurpation of power.

#### *Abū Ma'ālī al-Juwaynī: Swinging between Four Aspects*

ʿAbd al-Mālik al-Juwaynī, or Imām al-Ḥaramain (the *imām* of two holy cities because he taught in Makkah and Madinah), was born in 419/1028 died in 478/1085. He was born in the time of the Buyyids occupation of the Abbasids, but he spent most of his life in the time of the Saljūqs in the city of Nishapur.<sup>170</sup> Al-Juwaynī lived during the increasing tension between *madhhab* Ash'arī-Shāfi'ī on the one hand and Ḥanafī-Mu'tazila on the other. As a follower of both Ash'arī and Shāfi'ī, he endured persecution from the first regime of the Saljūqs under *sulṭān* Tughril Bek and *wazīr* ʿAmīd al-Mulk al-Kundurī who established Ḥanafī and Mu'tazila as the formal *madhhabs* of the Saljūqs.<sup>171</sup> After the regime changed by the coming of *sulṭān* Alp Arslān dan *wazīr* Nizām al-Mulk who altered the Saljūqs' official teaching into Ash'arī and Shāfi'ī, he returned from Makkah and Madinah to Nishapur. He then started his career as a professor for the new academy called Nizāmiyya, which Nizām al-Mulk had just established.<sup>172</sup> Al-Juwaynī

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<sup>169</sup> Gibb, *Studies on the Civilization*, 164.

<sup>170</sup> Al-Subkī, *Tabaqāt*, V: 165-222; al-Dhahabī, XVIII: 468-77; Wael B. Hallaq, "Caliphs, Jurists and the Saljūqs", 26-41; Sohaira Zahid Siddiqui, *Law and Politics*, 60-75.

<sup>171</sup> Richard W Bulliet, *The Patricians of Nishapur: A Study in Medieval Islam. Social History* (Cambridge: Harvard University Press, 1972), 33; Siddiqui, *Law and Politics*, 7, 75.

<sup>172</sup> Al-Subkī, *Tabaqāt*, V: 171. Siddiqui, *Law and Politics*, 60-75.

lived in the period of caliph al-Muqtadī, who probably had no longer a political power due to the increasing power of the institution of sultanate and wazirate.<sup>173</sup>

Al-Juwaynī's idea on imamate can be found in his book of theology *al-Irshād* and *al-Luma'*.<sup>174</sup> In addition, he wrote a specific treatise in political thought titled *Ghiyāth al-Umam*. The latter addresses three general issues, namely: first, normative issues surrounding *imāma*, such as its importance and the nature of its obligation, whether by reason or revelation; second, how to deal with a situation in which Muslims do not have any *imām*; and third, how to deal with a loss of scholars (ulama) who are in charge of *ijtihād* on the earth.

Al-Juwaynī puts the issue of usurpation in the second topic, mainly when he discusses a case of an *imām* being not the most excellent person or when he does not fulfill the whole conditions for being an *imām*. It is important to note that when examining this issue, al-Juwaynī does not allude to the historical events of the usurpation of power happening in the past and the present. This means that he purely examines the issue at a theoretical and abstract level. Another thing worth noting is that, unlike al-Ḥalīmī and al-Māwardī, al-Juwaynī is no longer theorizing the issue of *istilā' ala al-iqlīm* (local seizure) in his work. In addition, he does not problematize the phenomenon of a foreign power (*amīr* or *sulṭān*) controlling a caliph as al-Māwardī does in *al-Aḥkām al-Sulṭāniyya*. It seems for him that those two phenomena are actual reality

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<sup>173</sup> In this regard, Hallaq maintains: “The latter [al-Juwaynī], while still clinging to the institution of the imamate in general, had ardently advocated the Saljūqs and their vizier Nizām al-Mulk, and in his *Ghiyāth al-Umam* he persistently militated against the waning ‘Abbāsids.” See, Hallaq, “Caliphs, Jurists, and the Saljuqs,” 27. See also, 30.

<sup>174</sup> Abū Ma'ālī 'Abd al-Mālik al-Juwaynī, *Kitāb al-Irshād ilā Qawāti' al-Adilla fi Uṣul al-I'tiqād*, ed. Aḥmad 'Abd al-Raḥim al-Sāyih and Taufiq 'Alī Wahba (Cairo: Maktab al-Thaqāfa al-Dīniyya, 2009); 315-33; Abū Ma'ālī 'Abd al-Mālik al-Juwaynī, *Luma' al-Adilla fi Qawā'id 'Aqā'id Ahl al-Sunna wa al-Jamā'a*, ed. Dr. Fauqiyya Ḥusain Maḥmūd (Beirut: 'Ālam al-Kutub, 1987), 128-30.

that must be accepted. There is even an indication that al-Juwaynī accepts *sulṭān* who has the real military power (*shawka*) as an institution that could strengthen the legitimacy of an *imām*.<sup>175</sup>

Al-Juwaynī discusses the topic of usurpation explicitly in chapter eight of *al-Ghiyāth*. In addition, his ideas on the matter can also be extracted from his discussion on another topic: a case of an *imām* being captured and confined by an enemy in a bunker.<sup>176</sup> On this issue, he follows the tradition started by al-Māwardī, his fellow Shāfi‘ī scholar who discussed it under the category of *al-qahr*. Al-Juwaynī also shares the opinion of al-Māwardī in this case.<sup>177</sup> When an *imām* cannot be freed from an enemy, his position cannot be maintained, and, therefore, a new *imām* must replace him.<sup>178</sup> Al-Juwaynī argues that an *imām* must have an impeccable psychical condition. A detained *imām*, who suffers from a limitation of movement, equals a blind or deaf *imām*. However, al-Juwaynī also highlights that if there is no certainty whether an *imām* is truly captured or not, he must be kept in his position.<sup>179</sup> Furthermore, there must be an effort to release him before replacing him. He mentions the case of ‘Uthmān ibn ‘Affān, the third caliph of Islam, as a ground for this theory. He was still a legitimate caliph until he was murdered, even though he was confined by his enemies in his house.

In his explicit discussion of the usurpation of power from an *imām*, al-Juwaynī identifies three scenarios. Those scenarios are:

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<sup>175</sup> Al-Juwaynī, *Ghiyāth al-Umam*, 56-67. See also, Hallaq, “Caliphs, Jurists and the Saljūqs”, 33; Siddiqui, *Law and Politics under the Abbasids*, 245.

<sup>176</sup> Al-Juwaynī, *Ghiyāth al-Umam*, 89.

<sup>177</sup> This is exactly how tradition works: a subsequent scholar builds his opinion upon an existing view. A prevailing view becomes a foundation on which a new opinion is established.

<sup>178</sup> Al-Juwaynī, *Ghiyāth al-Umam*, 89, 92.

<sup>179</sup> Al-Juwaynī, *Ghiyāth al-Umam*, 94.

1. a usurper, besides being a powerful military figure, is a person who meets all the conditions for being an *imām*;
2. a usurper does not meet the whole condition for being an *imām*, but he has competence (*kifāya*);
3. a usurper is a person who does not qualify as an *imām* at all; neither he has military power nor competence.<sup>180</sup>

The following account explains the first two scenarios along with their related ramifications. Al-Juwaynī does not expound on the third scenario. It seems that for him, it is already obvious that it cannot be justified in any condition. Before proceeding, it is worth mentioning that for al-Juwaynī an *imām* must meet the following criteria: a Quraishī, having independent reasoning (*mujtahid*), pious (*wara'*), powerful (*najda*), and competent (*kifāya*).

The first scenario presupposes that usurpation is undertaken by a person who fulfills all the conditions of *imāma* or is even the most excellent person. In this case, his claim of *imāma* is upheld. In a detailed way, al-Juwaynī proceeds with two possible ramifications in this scenario: first, for various reasons, no people sitting as *ahl al-ḥall wa al-'aqd* (people of election); second, people are sitting in this position undertaking their obligation. In the first situation, al-Juwaynī maintains, if a usurper is truly a qualified person, his claim of being an *imām* is legitimate (*kāna imāman ḥaqqan*). In this case, *ahl al-ḥall wa al-'aqd* and their contract with an *imām* are not needed.<sup>181</sup> In the second situation, two possibilities might occur. Either those who are *ahl al-ḥall wa al-'aqd* deny the legitimacy of usurper or approve it. If they reject, a usurper is still a legitimate *imām* in any way. Due to their denial of his legitimacy, they are considered

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<sup>180</sup> Al-Juwaynī, *Ghiyāth al-Umam*, 231.

<sup>181</sup> Al-Juwaynī, *Ghiyāth al-Umam*, 232.

sinner and have committed corruption.<sup>182</sup> There is no acceptable ground to deny this usurper. Therefore, if a usurper is a qualified person or is the most excellent candidate and there are no other candidates, a contract and selection of *ahl al-ḥall wa al-‘aqd* are negligible.<sup>183</sup>

Al-Juwaynī's idea on the usurpation of power is the loosest discourse that has ever been posited in the history of Islamic political thought until the fifth/eleventh century. So far, he made the most radical concession to justify reality. He not only accepts and legalizes an overthrow of an *imām* but also condones other implications. Al-Juwaynī allows a contract as an established mechanism to certify rulership not to be made. For him, a contract is only a formality that could be overridden. It is also worth noting that the idea of putting aside a contract from people of election, because of having the best candidate of *imām*, already occurred in the discourse of al-Jāḥiẓ as I have discussed previously.

In radical contrast to al-Juwaynī, al-Ḥalīmī (his fellow scholar in Shāfi‘ī and Ash‘arī school) maintains that a contract is an important symbol and a determining factor for the legitimacy of an *imām*. For the latter, once an *imām* has received an oath of allegiance from *ahl al-ḥall wa al-‘aqd*, his legitimacy must persist. Al-Juwaynī holds a different view on *ahl al-ḥall wa al-‘aqd*. He is also willing to concede to legitimize a usurpation of power. In fact, al-Juwaynī is the first scholar who explicitly maintains that an act of denying of usurper's legitimacy is sin.

It is important to ponder an implication of al-Juwaynī's idea. This view gives wide discretion to any person to carry out a usurpation of power and then claim as the best candidate or a person fulfilling all the requirements of *imāma*. A question that al-

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<sup>182</sup> Al-Juwaynī, *Ghiyāth al-Umam*, 232.

<sup>183</sup> Al-Juwaynī, *Ghiyāth al-Umam*, 233.

Juwaynī does not ask and elaborate is who can determine whether a person is the best or not. Anyone can make such a claim. If a couple of more individuals make opposing claims, then a conflict is unavoidable.

Al-Juwaynī continues his pronouncement about the first scenario of usurpation of power. Another possible case is a candidate who fulfills the whole imamate requirement but does not possess military power to support his proclamation of imamate (*lam yakun mustazhiran bi 'idda wa najda*).<sup>184</sup> If there is no *ahl al-ḥall wa al-'aqd*, and there are no other people with the same quality to make a claim, meaning he is the only qualified candidate (*waḥīdu 'asrihi, farīdu dahrihi*), his imamate is upheld. However, if people do not obey him, his imamate does not count if the election committee does not make a contract with him. In other words, if people do not obey him, his position equals an *imām* being detained by the enemy with only a small chance to release. Therefore, he must be replaced.<sup>185</sup> His act of usurpation is not legitimate, even though he does fulfill the requirements for being an *imām*. For al-Juwaynī, in a condition of an absence of coercive military support, people's obedience is the second criterion to consider for accepting a qualified usurper. He then pronounces a maxim to justify an *imāma*: “winning with strength and triumph with a number (of people) and power.”<sup>186</sup> Therefore, al-Juwaynī proceeds, if the best candidate who has the strongest possibility of being obeyed by people does not want to enter the political area, he is considered to be committing a big sin.<sup>187</sup>

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<sup>184</sup> Al-Juwaynī, *Ghiyāth al-Umam*, 234.

<sup>185</sup> Al-Juwaynī, *Ghiyāth al-Umam*, 235.

<sup>186</sup> “*fa inna qā'ida al-'imāma al-istizhār bi al-munna wa al-istikhār bi al-'idda wa al-quwwa*”. Al-Juwaynī, *Ghiyāth al-Umam*, 235-6.

<sup>187</sup> Al-Juwaynī, *Ghiyāth al-Umam*, 236.

Another possible case from the first scenario is a person usurps a power with his people (*bi al-idda*), but in reality, he is not the only person qualified for being an *imām*. In other words, he takes a shortcut to reach the position of *imām* and wins against other candidates. What is the solution to this problem? Al-Juwaynī answers that if there is a prolonged disorder among people, his claim of imamate is valid. However, it must be established with a selection and contract between him and a selection committee (*lā budda min ikhtiyār wa ‘aqd*). The reason for this is that he is not the only candidate (*laysa mutawaḥḥidan*). If a contract has been held, his imamate is legitimate.<sup>188</sup> Al-Juwaynī disagrees with his fellow scholars who maintain that a contract is not necessary. For him, a contract is essential to stop chaos among people. He reasons that avoiding the turmoil is the reason why Ḥasan and Ḥusayn were willing to give his oath of allegiance to Mu‘āwiya.<sup>189</sup> In short, based on this description, it is clear that for al-Juwaynī a contract is needed only in a situation of political conflict.

The second scenario which might happen is if a person usurps power, but he has only competence, not other qualifications: meaning he is not from Quraish, not a *mujtahid*, and does not have military power.<sup>190</sup> In this scenario, if no other candidates can meet the entire conditions for being an imam, his claim can be accepted (*fayata ‘yyan naṣbuḥu*).<sup>191</sup> In addition, people must obey him. The rest of the details follow the first scenario where in which a qualified person usurp power.

To sum up, al-Juwaynī’s view on usurpation is swinging between four aspects, namely: (1) quality of usurper, (2) military power, (3) people’s obedience, and (4)

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<sup>188</sup> Al-Juwaynī, *Ghiyāth al-Umam*, 237.

<sup>189</sup> Al-Juwaynī, *Ghiyāth al-Umam*, 238.

<sup>190</sup> Al-Juwaynī, *Ghiyāth al-Umam*, 239. Competence means being able to manage political affairs of *umma*.

<sup>191</sup> Al-Juwaynī, *Ghiyāth al-Umam*, 240.

contract with *ahl al-ḥall wa al-‘aqd*. If a usurper meets the four conditions, he is, without question, a legitimate *imām*. He is also legitimate if he collects the first three and lacks only the last requirement. However, if he lacks the second and third requirement, which are military power and people, he is by any means not a legitimate ruler. It seems for him these two aspects are paramount to determine the status of an act of usurpation. It is also worth noticing that a contract with an election committee (*ahl al-ḥall wa al-‘aqd*) does not always matter for al-Juwaynī. It is necessary only in a condition of a conflict between two usurpers. It even can be overridden when they reject a qualified usurper without any reasonable arguments.

Al-Juwaynī contributes very significantly to the discourse of usurpation of power in the history of Islamic political thought.<sup>192</sup> He concedes many aspects in imamate discourse for usurpers even though he does not give them a blank cheque. His ideas, later on, become a foundation for subsequent ulama to formulate a discourse with further concession. The next section will examine the thought of the ulama, who lived in different periods after the fifth/eleventh century.

### *The Crystallization of Discourse*

The classical period, which lasted from the fourth to the fifth (the tenth until the eleventh) century and I have examined in the previous section, is a determining phase for the development of Islamic political thought, particularly about usurpation of power. Even though the ulama of the prior period had discussed this issue, the systematization of discourse happened in this period. As I have mentioned before, besides addressing the

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<sup>192</sup> Hallaq, “Caliphs, Jurists and the Saljūqs,” 40-1; Anjum, *Politics, Law, and Reason*, 122-5; Mona Hassan, *Longing for the Lost Caliphate: A Transregional History*. (Princeton, New Jersey: Princeton University Press, 2018), 103-7.



issue of overthrowing a caliph by his rebels, the classical ulama also dealt with the problem of control of foreign power over a caliph and local seizure.

In this section, I delineate the discourses of the ulama living between the sixth and the ninth (the twelfth and fifteenth) century. The general tendency of the discourse of this period is simplification and synchronization. Before I examine the discourses of ulama, the social-political background of their discourse is in order.

### Rampant Usurpation in the Time of Mamlūk Dynasty

The seventh or the thirteenth century is probably the most tumultuous period in the history of the Abbasid. Two important phenomena occurred during this period that tremendously influenced Islamic political thought. First, in this century, the Abbasid caliphate crumbled, epitomized by the destruction of the city of Baghdad by the Mongols. Apart from taking many lives, including the last caliph al-Mu‘taṣim, this event also destroyed the caliphate's political institutions that had been existing for six centuries.<sup>193</sup> Second, this century onward also witnessed the rampant usurpation of power, especially in the Mamlūk sultanate. No political regime in Islamic history has experienced more usurpation than the Mamlūk dynasty. In the following pages, I explain why and how usurpation became a common phenomenon during the Mamlūk period.

The Mamlūk Sultanate emerged to replace the Ayyubid dynasty that had ruled Egypt for 90 years. The latter is famous for their achievements in reclaiming the city of

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<sup>193</sup> Quṭb al-Dīn Mūsā Muḥammad al-Yūnīnī, *Dhayl Mir‘ā al-Zamān* (Hyderabad, India: Maṭba‘a Majlis Dā‘irat al- Ma‘ārif al- ‘Uthmāniyyah, 1955), I: 85, 351, 358–59; al-Subkī, *Ṭabaqāt al-Shāfi‘iyya*, VIII: 262-277; Ibn Kathīr, *al-Bidāya wa al-Nihāya*, XIII: 204-5, 212; al-Suyūṭī, *Tārīkh al-Khulafā’*, 712-22; ‘Umar Fauzī, *al-Khilāfa al-‘Abbāsiyya*, II: 247-65; Reuven Amitai, *Mongols and Mamluks: The Mamluk-Īlkhānid War, 1260-1281* (Cambridge England; New York, NY, USA: Cambridge University Press, 1995), 15-7; Reuven Amitai-Preiss, “The Fall and Rise of the ‘Abbāsid Caliphate,” *Journal of the American Oriental Society* 116, no. 3 (July 1996): 487, <https://doi.org/10.2307/605150>.

Jerusalem from the Crusaders.<sup>194</sup> During their time in power, the Ayyubid *sultāns* imported many slaves from the Kipchak Turks for military purposes. At a certain point in history, the slaves turned into a tragedy for the Ayyubids. In the year 648/1250, the Ayyubid slaves murdered their own master, namely the eighth *sulṭān*, al-Mu‘azzam Turanshah. The mother of murdered *sulṭān*, Shajarat al-Durr, took the throne as a *sulṭāna* in the period of interregnum and then later on appointed the Mamlūk warrior, Mu‘iz al-Dīn Aybak, as the new *sulṭān* which eventually ended the period of the Ayyubid sultanate.<sup>195</sup>

In 659/1261, three years after the vacuum of the caliphate or eleven years after the collapse of the Ayyubid, Baybars, the fourth *sulṭān* of the Mamlūk, managed to install a caliph whom he found as a refugee from Baghdad in Cairo and gave him the title al-Mustanṣir billāh afterward.<sup>196</sup> Baybars needs the caliph to legitimize the Mamlūk sultanate against the Ayyubid dynasty, whom his predecessor had overthrown and

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<sup>194</sup> al-Dhahabī, *Siyar A‘lām al-Nubalā’*, XVII:155; R Stephen Humphreys, *From Saladin to the Mongols the Ayyubids of Damascus, 1193-1260* (New York, N.Y. American Council of Learned Societies, 1977); Jackson, *Islamic Law and State*, 33-43; Reuven Amitai, *Mongols and Mamluks*; 17.

<sup>195</sup> al-Yūnīnī, *Dhayl Mir‘ā al-Zamān*, I:55, 379; Ibn Kathīr, *al-Bidāya wa al-Nihāya*, XIII: 178-9; Jamāl al-Dīn Ibn Tighrībīrdī, *al-Nujūm al-Zāhira fī Mulūk Miṣr wa al-Qāhira* (Cairo: Dār al-Kutub al-Miṣriyya, 1938), VII: 3-40; Jackson, *Islamic Law and State*, 42-46; Daniel Beaumont, “Political Violence and Ideology in Mamluk Society,” *Mamlūk Studies Review* 8, no. 1 (2004): 204-6; Amalia Levanoni, “The Mamluk Conception of the Sultanate,” *International Journal of Middle East Studies* 26, no. 03 (August 1994): 373–92 (376); Willem Flinterman, “Killing and Kinging: Altaic Notions of Kingship and the Legitimation of Al-Zāhir Baybars’ Usurpation of the Mamluk Sultanate, 1249-1260,” *Leidschrift: Aan Het Hof* 27, no. April (2012): 31–48.

<sup>196</sup> ‘Izz al-Dīn Muḥammad ibn ‘Alī Ibn Shaddād, *Tārīkh al-Mālik al-Zāhir*, ed. Aḥmad Ḥuṭayṭ (Beirut: Dār al-Nashr Franz Steiner, 1983), 330; Muḥyī al-Dīn Ibn ‘Abd al-Zāhir, *al-Rauḍ al-Zāhir fī Sīra al-Mālik al-Zāhir*, ed. ‘Abd al-‘Azīz al-Khuwayṭr (Riyād, 1976), 99-112; Ibn Kathīr, *al-Bidāya wa al-Nihāya*, XIII: 232; al-Subkī, *Ṭabaqāt al-Shāfi‘iyya*, 723-4; al-Suyūṭī, *Tārīkh al-Khulafā’*, 723-4; David Ayalon, “Studies on the Transfer of the Abbasid Caliphate from Bagdad to Cairo,” *Arabica* 7, no. 1 (1960): 41–59; Jackson, *Islamic Law and State*, 50; Hassan, *Longing for the Lost Caliphate*, 71-5.

against his existing rival, the Ilkhanid sultanate.<sup>197</sup> Also, the caliph could bolster Baybars' leadership as a usurper of Sulṭān Qutuz, the famous *sulṭān* who led the war against the Mongol. Since the Baybars period, the institution of the Abbasids caliphate remained in history and centered in Cairo until the Ottomans abolished it in 1517.<sup>198</sup>

The Mamlūk sultanate lasted for 267 years. During this period, two dynasties were in power: first, the Kipchak slaves, who ruled from 647-783/1250-1382, and second, the Circassian slaves who ruled from 783-922/1382-1517. During these two periods, political violence and usurpation were pervasive. The usurpation took place in two forms: first, a *sulṭān* controls a caliph, or deposes him, and installs another person<sup>199</sup>; second, a military commander (*amīr*) ousts a *sulṭān* and installs himself as a new *sulṭān*. In this period, the position of a caliph is no longer powerful even though he is still considered paramount in the political system.<sup>200</sup> The caliphs no longer hold executive power even though he is still seen as a symbol of legitimacy and continuity with

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<sup>197</sup> Reuven Amitai, *Mongols and Mamluks: The Mamluk-Īlkhānid War, 1260-1281* (Cambridge England; New York, NY, USA: Cambridge University Press, 1995); Reuven Amitai-Preiss, "The Fall and Rise of the 'Abbāsīd Caliphate," *Journal of the American Oriental Society* 116, no. 3 (July 1996): 487, <https://doi.org/10.2307/605150>.

<sup>198</sup> For the rise of the Ottoman, see Marshal Hodgson, *The Venture of Islam*, vol. III: 99-132; Abdurrahman Atçıl, *Scholars and Sultans in the Early Modern Ottoman Empire* (Cambridge, UK: New York, 2018); Hüseyin Yılmaz, *Caliphate Redefined: The Mystical Turn in Ottoman Political Thought* (Princeton, New Jersey: Princeton University Press, 2019).

<sup>199</sup> For instance, *sulṭān* al-Nāṣir ibn Qalāwūn imprisoned caliph al-Mustafkī was imprisoned, the same *sulṭān* deposed caliph al-Hākīm II, and *sulṭān* Barqūq deposed caliph al-Mutawakkil II. See, Hassan, *Longing for the Lost Caliphate*, 88-91.

<sup>200</sup> Mona Hassan mentions that people resentment against the *sulṭāns* took place several times because *sulṭāns* disrespect the caliphs. See, *Longing for the Lost Caliphate*, 88-95.

the prophet's leadership. They, to quote Holt, "reigned but did not rule."<sup>201</sup> Real power was in the hands of the *sulṭāns*.<sup>202</sup>

One thing also noteworthy is that it is true that during the Ayyubid period, the usurpation of power also occurred repeatedly. However, the Ayyubid regime lasted shorter than the Mamlūk. In addition, the Mamlūk produced many more political theorists who formulated significant ideas in terms of imamate discourse in general and usurpation in particular.<sup>203</sup>

It is also important to highlight that almost every Mamlūk *sulṭāns* came to power in unstable political conditions. The potential for usurpation was always stalking them. As a matter of fact, the ruling *sulṭāns* usually ended their reign either by being killed or demoted by political opponents.<sup>204</sup> Hereditary practices did occur several times, namely by *sulṭān* Aybak to Nūr al-Dīn ʿAlī in 647/1250, by *sulṭān* Baybars to his two children, al-Saʿīd Baraka Khān and al-ʿAdil Salamish in 675/1277 and 678/1280, and by *sulṭān* Qalāwūn to his eight descendants (at 688/1290 to 783/1382). However, it should be noted that this appointment is not the will of the *sulṭāns* themselves but the choice of the

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<sup>201</sup> P. M. Holt, "The Position and Power of the Mamlūk Sultan," *Bulletin of the School of Oriental and African Studies* 38, no. 2 (June 1975): 237–49, <https://doi.org/10.1017/S0041977X00142442>, 243; P. M. Holt, "Some Observations on the 'Abbāsīd Caliphate of Cairo," *Bulletin of the School of Oriental and African Studies* 47, no. 3 (October 1984): 503, <https://doi.org/10.1017/S0041977X00113710>.

<sup>202</sup> Holt, "Some Observations," 503; Hassan, *Longing for the Lost Caliphate*, 88–97.

<sup>203</sup> For the political thought arising during the Mamlūk period, see Sherman A Jackson, *Islamic Law and the State: The Constitutional Jurisprudence of Shihāb al-Dīn al-Qarāfī* (Leiden; New York: E.J. Brill, 1996); Hassan, *Longing for the Lost Caliphate*, 108–41; Anjum, *Politics, Law, and Reason in Islamic thought: the Taymiyyan Moment*. More work needs to be done to prolong the list. A specific study has not been made to examine imamate discourse of the scholars like al-Dhahabī, al-Qalqashandī, al-Subkī, al-Sūyūfī, and al-Shīrazī.

<sup>204</sup> Beaumont, "Political Violence and Ideology," 201.

council of military generals (*amīrs*).<sup>205</sup> During the Circassian (Mamlūk Baḥrī) period in power from 784-922/1382-1517, none of the successions was hereditary.<sup>206</sup>

Regarding the frequency of usurpation, Beaumont noted that 22 out of 50 *sulṭāns* of the Mamlūks were killed and their power was taken. Of the 50 sultans, 29 were categorized as strong *sulṭāns*. The remaining 21 were only puppet *sulṭān* who were controlled by the *amīrs*.<sup>207</sup> In addition, it is not uncommon in the Mamlūk period for *sulṭān* to rule only for a brief period. Some of them sat in the office for only one year and even two months.

The usurpation of the power of the Mamlūk *sulṭāns* had two patterns. First, it was undertaken by political rivals of a ruling *sulṭān*. During the Mamlūk sultanate, there was a culture of rivalry between factions of slaves. A group of slaves who succeeded in overthrowing a *sulṭān* determined through their council which of the *amīrs* (military officers) they would appoint as a new *sulṭān*.<sup>208</sup>

Second, the *sulṭān* was overthrown by his own faction. In several periods, some *sulṭāns* were only puppets of their *amīrs*. If they were no longer wanted, they could be put demoted.<sup>209</sup> This period of puppet sultanate emerged particularly after the death of *sulṭān* Nāṣir Muḥammad, the strongest *sulṭān* in Mamlūk history, in 741/1341 until the emergence of the Mamlūk Circassian in 783/1382.<sup>210</sup> *Sulṭān* Nāṣir Muḥammad had eight

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<sup>205</sup> Holt, "The Position and Power," 239.

<sup>206</sup> Holt, "The Position and Power," 240.

<sup>207</sup> Beaumont, "Political Violence and Ideology," 205.

<sup>208</sup> Holt, "The Position and Power", 239; Levanoni calls this group of emirs a military oligarchy. See Levanoni, "The Mamluk Conception," 375.

<sup>209</sup> Levanoni, "The Mamluk Conception," 376.

<sup>210</sup> R. Stephen Humphreys, "The Politics of the Mamluk Sultanate: A Review Essay," *Mamluk Studies Review* 9, no. 1 (2005): 223.

children, two grandsons, two great-grandsons, who were successively raised as the puppets *sulṭān* by the Mamlūk *amīrs*.<sup>211</sup>

Since the *sulṭān* is generally a puppet, he must pledge to be loyal (*hilf*) to his faction and not act at his will after he is crowned. In other words, he must serve the interests of his faction.<sup>212</sup> For instance, he has to place a slave of his faction in high military positions and the Mamlūk government.<sup>213</sup> A *sulṭān*'s disloyalty or reluctance to grant privileges to his faction could anger *amīrs* and motivate them to kill him. This, for example, happened to *sulṭān* Qutuz, who was killed by his *amīr* Baybar in 658/1260. Qutuz's murder is quite ironic given that he was the famous *sulṭān* who won the battle against the Mongols in the battle of 'Ain Jālūt and was one of the slaves involved in overthrowing the last Ayyubids.<sup>214</sup>

#### The Discourses of the Ulama

The insurrection and usurpation of power after the destruction of Baghdad and during the Mamlūk period, in particular, are the raw material that scholars witnessed. In

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<sup>211</sup> Frédéric Bauden, "The Sons of Al-Nāṣir Muḥammad and the Politics of Puppets: Where Did It All Start?," *Mamlūk Studies Review* 13, no. 1 (2009): 53.

<sup>212</sup> Jo Van Steenbergen, *Order out of Chaos: Patronage, Conflict, and Mamluk Socio-Political Culture, 1341-1382* (Leiden; Boston: Brill, 2006), 24; Holt, "The Position and Power," 242.

<sup>213</sup> Amalia Levanoni, "The Sultan's Laqab—a Sign of a New Order in Mamluk Factionalism?," in *The Mamluks in Egyptian and Syrian Politics and Society*, ed. Amalia Levanoni and Michael Winter (Leiden, Boston: Brill, 2004), 79.

<sup>214</sup> Ibn 'Abd al-Ẓāhir, *al-Rauḍ al-Zāhir*, 66–68; al-Yūnīnī, *Dhayl Mir 'ā al-Zamān*, I: 360, 378; Ibn Kathīr, *al-Bidāya wa al-Nihāya*, XIII: 216, 226; Jackson, *Islamic Law and State*, 46-9; Levanoni, "The Mamluk Conception of the Sultanate," 376; Willem Flinterman, "Killing and Kinging", 31–48; Beaumont, "Political Violence and Ideology", 297; Hassan, *Longing for the Lost Caliphate*, 66; Amitai, *Mongols and Mamluks*, 26-48.

the following pages, I delineate the thought of Ibn al-Qudāma, Ibn Jamā‘a, and al-Kamāl bin Humām who formulated significant discourse on the usurpation of power.

*Ibn Qudāma: Refusing Legitimacy of a Usurper is an Act of Rebellion*

Muwāffaq al-Dīn Ibn Qudāma al-Maqdisī is a notable Ḥanbalī jurist who lived between 541-620/1147-1223. He was born in Palestine but passed away in Damascus. He witnessed the crusade war and saw European soldiers occupying Palestine, which compelled him to travel to Damascus. He also journeyed to Iraq to pursue knowledge.<sup>215</sup> It is probably during his residence in Damascus and Baghdad, he observed the dynamic political situation in the center of the Ayyubid sultanate and the Abbasid office.

Ibn Qudāma does not write a specific work on imamate.<sup>216</sup> This is probably why modern scholars tend to overlook his contribution to the issue of usurpation. He discusses this matter as a minor topic in *al-Mughnī*, a voluminous book consisting of fifteen volumes compiling Ḥanbalī jurists' legal opinions before him. However, even though it is not extensive in terms of quantity, his view is unique compared to the previous ulama and influential to subsequent generations in Ḥanbalī *madhhab*. Therefore, it is necessary to put him in the chain of historical thought regarding the usurpation of power.

Ibn Qudāma addresses usurpation in the chapter of *qitāl ahl al-baghy* (waging war against rebels). It is evident from the title that his main concern is an act of rebellion against *imām*. In this chapter, Ibn Qudāma accepts an act of overthrow as a means to acquire power. He maintains that whoever establishes himself as an *imām*, compels

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<sup>215</sup> Al-Dhahabī, *Siyar A‘lām al-Nubalā‘*, XXII: 165-173.

<sup>216</sup> He tends to disregard *‘ilm kalām*, which he considers speculative and unnecessary. He writes a book entitled *Taḥrīm al-Nazar fī Kutub Ahl al-Kalām* (forbidding reasoning in the books of theologians).

people to admit him and receive their oath, he is a valid *imām*. Furthermore, any actions against his legitimacy and fight against him are forbidden.<sup>217</sup> Any physical resistance against his rulership will only cause bloodshed and destroy people's property.

Ibn Qudāma bases his view of the legitimacy of a usurper on a historical fact. He refers to an incident taking place in 73/692: 'Abd al-Mālik ibn Marwān crucified 'Abd Allāh ibn Zubayr and usurped power from him. Despite 'Abd al-Mālik's conduct, his imamate is still upheld because he won the battle, and he could compel to accept him. Ibn Qudāma quotes a hadith saying: "whoever rebels against my people, and they are significant in number, kill them with a sword, whatever their situation is."<sup>218</sup> It is important to note that this hadith is absent in the discourse of other ulama who discussed the issue of usurpation, including Aḥmad, the eponym of the Ḥanbalī *madhhab* himself.

Ibn Qudāma's discourse is interesting to analyze. In terms of his acceptance of usurpation of power, his position is not very surprising. His discourse is merely a continuation of a discursive tradition in the Ḥanbalī school of thought. Aḥmad ibn Ḥanbal, who lived three centuries earlier, already made the same contention. However, compared to tradition from another school, particularly al-Shafī'ī, his idea is very different. Al-Ḥalīmī and al-Māwardī rejected this action and considered the perpetrators as rebels. Al-Juwaynī accepts this action with conditions as I mentioned above. In contrast, Ibn Qudāma does not require any qualification to legitimize a usurper.

The most significant leap from the previous position is his idea that whoever denies the legitimacy of a usurper is considered a rebel (*bāghī*). Moreover, they could

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<sup>217</sup> Ibn Qudāma, *al-Mughnī*, XII: 243.

<sup>218</sup> "Man kharaja 'alā ummatī wa hum jami' faḍribū 'unuqahu". This is reported by Imām Muslim in the chapter *ḥukm man farraqa amra al-muslimīn* (the judgment of people who divided the unity of Muslims), in *kitab al-imāra* (the book of rulership).



even be combated.<sup>219</sup> However, Ibn Qudāma also reminds the authority to use a soft approach before physical action. If it is possible to provide informatio, answer their concerns, and refute their arguments, violence does not need to be used. Ibn Qudāma mentions an account of ‘Alī, who dealt with rebels in the Battle of the Camel. He sent a letter beforehand to warn them.<sup>220</sup>

Another matter worth noting is Ibn Qudāma’s view on who rebels are. His position is the opposite of that of al-Ḥalīmī, a Shāfi‘ī and theologian, whom I have discussed earlier. For the latter, rebels are those who seize power, disregarding the selection and contract between *ahl al-ḥall wa al-‘aqd* and an existing *imām*. Ibn Qudāma flipped al-Halīmī’s understanding of rebellion on its own head. For him, rebels are those who deny the reality that the usurper has become an *imām*. This is an entirely new and unprecedented view. The previous scholars accept this fact as a critical situation and objective reality. None of them considered defenders of the legitimacy of a previous *imām* as rebels.

As such, Ibn Qudāma’s discourse signifies a further concession in Islamic political thought. In his conception of politics, he abolishes many things which previously were considered indispensable. He does not require moral capacity, competence, and commitment to implement *shari‘ah* from a usurper. He even legitimizes those who acquire power with illegitimate means to use force to defeat his deniers.

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<sup>219</sup> “*faman kharaja ‘alā man thabatāt imāmatuh bi aḥadi hādhihi al-wujūh bāghiyān, wajaba qitāluh...*”. Ibn Qudāma, *al-Mughnī*, XII: 243.

<sup>220</sup> Referring to ‘Alī’s case in this issue is an unmistakable awkward analogy. Ibn Qudāma only takes one aspect from ‘Alī rulership, which is how he deals with Mu‘āwiya as a rebel. However, he disregards the fact that ‘Alī reached the position of caliph not through usurpation but people’s choice.

After Ibn Qudāma's, a concession in Islamic political thought became a continuous process. In the next section, I display the contribution of Ibn Jamā'a and his teacher, al-Nawawī, to this process of degradation.

*Ibn Jamā'a: Usurpation as the Third Legal Means to Acquire Power*

Abū 'Abd Allāh or Badr al-Dīn Ibn Jamā'a was born in 639/1241 in Syria, 19 years after the death of Ibn Qudāma, and passed away in 733/1332 in Cairo. He is a jurist of Shāfi'ī *madhhab* and was appointed as a chief judge by the *sulṭān* of the Mamlūk Dynasty.<sup>221</sup> Ibn Jamā'a lived during the period of political tension between the Mamlūk and the Mongol Muslim Dynasty, the Ilkhanid. He witnessed the famous battle of 'Ain Jalūt, which defeated the Mongols and stopped their ongoing expansion to Egypt. He also witnessed the usurpation of power from the Ayyubid Dynasty by the Mamlūks in 647/1250 and several usurpations in the Mamlūk sultanate. In his long 19 years of life, he witnessed at least 14 *al-sulṭān al-mālik* of al-Mamlūks. His discourse on usurpation is very much colored by political instability during the Mamlūks period.

Ibn Jamā'a's legal work, *Taḥrīr al-Aḥkām*, besides dealing with imamate theories, also describes the law of war. It could be said that the primary purpose of this book is to encourage *sulṭān* and his people to go to war and how he should administer his army and conduct in a war. Of seventeen chapters, three-quarters of the book are devoted to discussing the issue of *jihād*. It is apparent that by writing this book, Ibn Jamā'a supports the Mamlūk against the Ilkhanid, the Mongol dynasty who just

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<sup>221</sup> Tāj al-Dīn al-Subkī, *Tabaqāt al-Shāfi'iyya al-Kubrā*, X: 79-81; Ibn Kathīr, *al-Bidāya wa al-Nihāya*, XIV: 163.

converted to Islam and wanted to take over Egypt.<sup>222</sup> Even though his discussion of *imāma* is succinct, it is still important to analyze. His idea, which he absorbs from his teacher, epitomizes the most current legal development in the issue of usurpation in the history of Islamic political thought up to his period.

Ibn Jamā'a's thoughts regarding the usurpation of power are as follows. He divides *imāma* into two categories: elective (*ikhtiyāriyya*) and coercive (*qahriyya*). The first kind of *imāma* is rulership of someone who meets all the required traits, namely being a man, free (not a slave), adult, clear-headed, Muslim, brave, Quraishī, knowledgeable, and able to manage people's affairs. Ibn Jamā'a states that this kind of *imāma* is established through two mechanisms: a committee selection and a designation from a previous *imām*.<sup>223</sup>

A coercive imamate is rulership of someone who uses military force to reach his position, mainly when a leadership vacuum occurs. With his power, he coerces people to recognize him as an *imām*, overlooking standard procedures: an oath of loyalty and designation of a previous *imām*. This kind of *imāma* is also acceptable. Even if an *imām* is an ignorant (*jāhil*) and corrupt (*fāsiq*) person, it does not impair his *imāma*. People still must obey him. If another person overthrows him, his *imāma* is considered terminated, and usurper is legitimate. The rule is that *imāma* is given to whoever wins during a political conflict. This rule is inspired by the political attitude of a prophet's

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<sup>222</sup> Another famous jurist who lived during this period and supported the Mamlūk is Ibn Taimiyya. See, Anjum, *Politics, Law, and Reason*, 173-6. See also, Jon Hoover, *Ibn Taymiyya* (Oneworld Academic, 2019).

<sup>223</sup> Badr al-Dīn Ibn Jamā'a, *Tahrīr al-Aḥkām fi Tadbīr al-Islām*, ed. Fuād 'Abd al-Mun'im Aḥmad (Qatar: Riāsah al-Maḥakim al-Shar'iyya wa al-Shu'un al-Dīniyya, 1985), 52-54

companion named ‘Abd Allāh ibn ‘Umar. He sided with whoever could defeat his competitor in conflict to achieve power (*naḥnu ma‘a man ghalab*).<sup>224</sup>

From the above passage, it is clear that Ibn Jamā‘a recognizes the validity of two kinds of usurpation, namely: usurpation during the vacuum of political authority and usurpation against an existing usurper ruler. The last scenario is seemingly a legal justification of political situation in the Mamlūk sultanate: a *sulṭan* acquires his power by brute coercion usurping power of a previous *sulṭān* and then comes to a next *sulṭān* overthrowing him. From here, it is clear that Ibn Jamā‘a does not legalize the whole scenario of usurpation. In particular, he does not admit the legality of usurpation against an *imām* who has legitimacy from a valid contract with a committee of an election. In other words, Ibn Jamā‘a validation of usurpation comes with conditions.

Some orientalist such as HR Gibb dan Lambton argue that Ibn Jamā‘a is the first jurist who initiated the idea of usurpation.<sup>225</sup> Also, due to this justification of usurpation, Gibb, in particular, depicts him as a pinnacle of degradation of Islamic political thought. His view has been considered an accumulation of concession practices that have been a reality for centuries in Islamic history. Mona Hassan is correct when she maintains that there is no novelty in the discourse of Ibn Jamā‘a on usurpation. In fact, this inclination has been established in the tradition of Shāfi‘ī school before Ibn Jamā‘a. However, I argue that Ibn Jamā‘a’s discourse does not originate from al-Juwaynī in *Ghiyāth al-Umam* as Mona Hassan claims.<sup>226</sup> There is a significant difference between al-Juwaynī and Ibn Jamā‘a. Al-Juwaynī still requires probity, capacity as a

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<sup>224</sup> Ibn Jamā‘a, *Taḥrīr al-Aḥkām*, 55.

<sup>225</sup> Gibb, “Constitutional Organization,” 23; Lambton, *State and Government*, 141– 42.

<sup>226</sup> Hassan, *Longing for the Lost Caliphate*, 110.

leader, and obedience to accept usurpation, as I have mentioned previously. These traits are utterly absent in the discourse of Ibn Jamā‘a on usurpation.

Instead, I contend that the foundation of Ibn Jamā‘a lies in the legal opinion of great Shāfi‘ī scholar, al-Nawawī (631-676/1233-1277), Ibn Jamā‘a’s own teacher. In *Rauḍa al-Tālibīn* al-Nawawī writes that an imamate of a person who achieves his position with military power is valid as long as the political situation is a vacuum. Even though he does not have a mandate from a previous *imām* and a contract with *ahl al-ḥall wa al-‘aqd*, his rulership is still legitimate. Even if he is a corrupt person, his imamate is still upheld. If another person overthrows this usurper *imām*, this second usurper then becomes a valid *imām*.<sup>227</sup> What is striking from the above statement is the fact that the wording of Ibn Jamā‘a is identical with that of al-Nawawī. This is understandable because al-Nawawī’s legal opinion exemplifies the official stance of Shāfi‘ī school.<sup>228</sup> Subsequent scholars after al-Nawawī, including Ibn Jamā‘a, made the same proposition as they are bound with the epistemology of *taqlīd*. I will come back to this issue of *taqlīd* later.

Another related point in Ibn Jamā‘a’s discourse is that, besides the issue of overthrowing an *imām*, he also describes the problem of *istīlā’ ‘alā al-imāra* (local seizure). He states that if a person seizes a territory with his power and soldiers, a caliph must admit him as a new governor. A denial of this seizure will only lead to political chaos.

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<sup>227</sup> Muhyī al-Dīn al-Nawawī, *Rauḍa al-Tālibīn wa ‘Umda al-Muftīn*, ed. Zuhayr al-Shāwis (Beirut, Damascus, Amman: al-Maktab al-Islāmī, 1991), X: 46-8.

<sup>228</sup> In al-Shāfi‘ī school of legal thought, al-Nawawī is a very important jurist. Along with al-Rāfi‘ī, they are the first person who collected thoroughly all legal opinions attributed to al-Shāfi‘ī, examined their validity, and decided the strongest view as the official stance of his *madhhab*. Regarding the position of al-Nawawī in the hierarchy of *madhhab* Shāfi‘ī, read Fachrizal A Halim, *Legal Authority in Premodern Islam Yahya B Sharaf Al-Nawawi in the Shafi'i School of Law* (Routledge, 2014); Ahmed El Shamsy, “The Ḥāshiya in Islamic Law: A Sketch of the Shāfi‘ī Literature,” *Oriens* 41, no. 3-4 (January 1, 2013): 289-315, <https://doi.org/10.1163/18778372-13413404>.

If a local usurper is not a qualified person, a caliph still has to recognize him and appoint a deputy. Ibn Jamā‘a explains that a common terminology used to denote a ruler of a restricted area in his period is kings (*mulūk*) and *sultān*.<sup>229</sup>

One thing worth mentioning is that the view of Ibn Jamā‘a on local seizure is merely an echo of al-Māwardī, his fellow scholar in Shāfi‘ī school, who lived two centuries earlier. As such, his discourse is only an affirmation of established discursive tradition in his school. He does not reform anything in this regard.

The next section explains al-Kamāl ibn al-Humām’s view as a representative of the last stage of Islamic political thought development on the usurpation of power in the pre-modern period.

#### *Al-Kamāl ibn al-Humām: The Complete Concession*

Al-Kamāl ibn al-Humām lived in the last period of the Mamlūk dynasty, between 790 and 861 (1388-1457). He was born in Alexandria, Egypt, and passed away in Cairo. He followed Ḥanafī *madhhab* in the legal field and Māturidī in theology.<sup>230</sup> It is important to note that Ibn al-Humām is one of the earliest Ḥanafī scholars who discuss the issue of establishing an *imām* and alludes to the problem of usurpation. As Kūnākātā

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<sup>229</sup> Ibn Jamā‘a, *Tahrīr al-Aḥkām*, 79.

<sup>230</sup> Māturidī is a theological school that arose in the Transoxiana area in the fourth century. In some respects, there are many similarities between the doctrines of Ash‘arī and Māturidī. They share an epistemic position that reconciles the textualism of Ḥanbalī and the rationalism of Mu‘tazila. See, Ulrich Rudolph, “Ḥanafī Theological Tradition and Māturīdism”; Nathan Spannaus, “Theology in Central Asia”; Lutz Berger, “Interpretations of Ash‘arism and Māturīdism in Mamluk and Ottoman Times,” in *The Oxford Handbook of Islamic Theology*, ed. Sabine Schmidtke (Oxford University Press, 2016).

maintains that for centuries, unlike three other Sunnī legal schools, Ḥanafī school was somewhat negligent of this topic.<sup>231</sup>

Ibn al-Humām writes in the field of theology a book entitled *Musāyara fī al-‘Aqā’id al-Munjiya fī al-Ākhira*. Ibn Quṭlūbughā then gives a commentary to this book and names it as *al-Musāmara fī Sharḥ al-Musāyara fī ‘Ilm al-Kalām*. Ibn al-Humām discusses the issue of *imāma* in chapter nine. Here, he describes the five criteria for being an *imām*, which are: an *imām* must be a Muslim, man, knowledgeable, pious (*wara’*), and competent. He maintains that while choosing a corrupt (*fāsiq*) *imām* is reprehensible (*makrūh*), but he does not need to be removed from his position. One thing worth noticing from al-Kamāl’s account of these required traits is that he does not include a lineage requirement. For him, it seems that there is no more relevance to retain the condition of being a Quraish descendant to be qualified as an *imām*, given that a position of caliph is no longer as significant as before. Therefore, what he means by an *imām* in his writing could refer to a position of a *sulṭān* itself. This is also an opinion of Ḥanafī scholar before him, Najm al-Dīn al-Tarsūsī.<sup>232</sup>

Categorically, according to Ibn al-Humām, a usurper is a corrupt *imām*. His leadership is acceptable, following *madhhab* Ḥanafī’s opinion that does not require probity (*‘adāla*).<sup>233</sup> Previously, he has mentioned that an *imām* must be a pious person. While it may appear contradictory, his justification is that Ibn al-Humām avoidance of chaos is more important than having a qualified *imām*.

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<sup>231</sup> Ḥasan Kūnākātā, *al-Naẓariyya al-Siyāsiyya ‘Inda Ibn Taymiyya* (Dammām, Riyāḍ: Dār al-Akhillā’ and Markaz al-Dirāsāt wa al-‘Ilām, 1994), 45-6.

<sup>232</sup> Al-Ṭarṣuṣī, *Tuḥfa al-Turk fīmā Yajib ‘an Yu‘mala fī al-Mulk*, 68, 70-71. See also, Mona Hassan, *Longing for the Lost Caliphate*, 120-3.

<sup>233</sup> al-Kamāl ibn Abī Sharīf Ibn al-Humām and Qāsim Ibn Quṭlubughā al-Ḥanafī, *al-Musāmara fī Sharḥ al-Musāyara fī ‘Ilm al-Kalām* (Cairo: al-Maktaba al-Azhariyya li al-Turāth, 2006), II: 166.

To support his acceptance of usurper, Ibn al-Humām refers to the fact that Abū Ḥanīfa accepted a usurper's leadership based on the companions' willingness to pray behind the corrupt caliphs of the Umayyad, such as Marwān ibn al-Ḥakam.<sup>234</sup> The claim about Abū Ḥanīfa is dubious because it contradicts information about his political behavior. As I mentioned in the section on the discourses of the early ulama, Abū Ḥanīfa refused to justify the usurpation of the Abbasid from al-Nafs al-Zakiyya. He also refused a judge position that the ruler of the Abbasid offered to him as a boycott to them and due to his loyalty to 'Alī's family.

Ibn al-Humām then continues that a condition of usurpation has the same status as an absence of a just Quraishī person for being an *imām*. Both conditions can be accepted. Rulership of a usurper is accepted because of necessity and to avoid chaos (*fitna*). The condition of usurpation of a corrupt person is better than the vacuum of political office. The latter situation would only cause greater harm: judges' decrees become invalid, no one could lead a jihad against infidel, and no one would be a custodian for a marriage of a woman who has no family.<sup>235</sup> Ibn al-Humām then mentions a doctrine from the Shī'a about the twelfth Imām who goes missing and is believed to return to establish justice in the end of the day. He contends that Sunnī political thought justifies the usurpation to avoid the vacuum condition as has been a reality for the Shiite for centuries.

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<sup>234</sup> Ibn al-Humām and Ibn Quṭlubughā, *al-Musāmara fī Sharḥ al-Musāyara*, II: 167.

<sup>235</sup> Ibn al-Humām and Ibn Quṭlubughā, *al-Musāmara fī Sharḥ al-Musāyara*, II: 168. The mentioning of the last impact is a little strange given that in *madhhab Ḥanafī* woman can marry herself and the custodian is not obligatory for her marriage. It is also noteworthy that this discourse about the importance of an *imām* in political system where in which his absence could nullify legal contract is reminiscent of al-Ghazālī's discourse in *al-Iqtīṣād fī al-I'tiqād*. It seems Ibn al-Humām has been informed by al-Ghazālī.



Based on this logic, therefore, Ibn al-Humām continues to suggest that if another person ousts a usurper, this second usurper is considered a valid *imām* as well. The reason for this acceptance is to maintain unity among people. Denying a usurper would only create a prolonged political conflict. He mentions several hadiths of the prophet about the danger of division among members of the community. One of those hadiths is: “Whoever disobeys a ruler and disassociates himself from a community, he will die as ignorant”.<sup>236</sup> Another hadith he quotes is: “whoever hates his ruler he must be patient for acting on his feeling. If he disassociates himself from his ruler even only an inch, he will die as an ignorant”.<sup>237</sup> It is essential to highlight that until this point in time, Ibn al-Humām is probably the first scholar who invokes these two hadiths to justify a usurpation of a corrupt ruler. He uses the hadith which is normally invoked to prevent rebellion in the issue of usurpation. He conflates between usurpation and rebellion.

Until the ninth/fifteenth century, this is the last development of Islamic political thought on usurpation of power that I come across. A usurper is accepted even though he is not a qualified person. The next part discusses why this tendency became the mainstream Islamic discursive tradition.

#### *Discussion: Cementation of Discourse*

After the seventh/thirteenth century, the ulama’s views regarding usurpation underwent two tendencies: simplification and synchronization. By simplification, I mean

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<sup>236</sup> “*Man kharaja min al-ṭā‘a wa fāraqa al-jamā‘a māta mītatan jāhiliyatan*”. This hadith is reported by al-Bukhārī and Muslim. Ibn al-Humām and Ibn Quṭlubughā, *al-Musāmara fī Sharḥ al-Musāyara*, II: 173.

<sup>237</sup> “*Man karaha min amīrih shay‘an falyaṣbir fa innah man kharaja min al-sulṭān shibrān māta mītatan jāhiliyatan*”. This hadith is reported by al-Bukhārī and Muslim. Ibn al-Humām and Ibn Quṭlubughā, *al-Musāmara fī Sharḥ al-Musāyara*, II: 173.

that the ulama discussed this topic only in passing in legal or theological books. Lacking sophistication and elaboration in their writings, scholars tend to use short and more straightforward sentences. This is different from the tendency of the previous period, especially the fourth and fifth or tenth and eleventh century in which the ulama examined the topic more extensively, covering multiple scenarios and ramifications of usurpation. By synchronization, I refer to the way nearly all ulama converge to accept usurpation as an objective reality. In other words, we hardly have any scholars who problematize this practice. They not only agreed on accepting usurpation but also placed it as the third method of establishing imamate after the method of designation and election.<sup>238</sup> Except for the Ḥanbalī school that positions this topic in the chapter of rebellion (*baghy*), other schools of law put it in the chapter on the method of appointment an *imām*.<sup>239</sup>

Below is a summary of the views of the ulama who lived after the seventeenth / thirteenth century other than the names that I have mentioned previously.

From Islamic law, acceptance can be found in the main books. In the Ḥanafī school, this can be seen in the works of al-Ḥasfakī (d. 1088/1677) and Ibn ‘Ābidīn (d. 1252/1836). The first writes: “the leadership of a usurper *sultān* is legitimate.”<sup>240</sup> In the Mālikī school, this position can be read in the works of al-Dasūqī (d. 1230/1815), al-Ṣāwī (d. 1241/1825), and Muḥammad ‘Ulaiysh (d. 1299/1882). Al-Dasūqī wrote: “Be aware that the greatest leadership is established with one of three methods, which are... and

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<sup>238</sup> Kūnākātā, *Nazariyya al-Imāma*, 48.

<sup>239</sup> It is worth noticing that Ḥanafī *madhhab* not only accept but in many of their texts also cited (*iqtibās*) legal formulation of Shāfi‘ī *madhhab*. Kūnākātā, *Nazariyya al-Imāma*, 50.

<sup>240</sup> ‘Alā’ al-Dīn al-Ḥasfakī, *al-Dur al-Mukhtār Sharḥ Tanwīr al-Abṣār wa Jāmi‘ al-Biḥār*, ed. ‘Abd al-Mun‘im Khalīl Ibrāhīm (Beirut: Dār al-Kutub al-‘Ilmiyya, 2002), I: 75. See also, Muḥammad Amīn Ibn ‘Ābidīn, *Radd al-Muhtār ‘alā al-Durr al-Mukhtār* (Cairo, Beirut: Muṣṭafā al-Bābī al-Ḥalabī, Dār al-Fikr, 1966), I: 549.

usurpation. Whoever has a power over people, it becomes obligatory upon them to obey him.”<sup>241</sup> In the Shāfi‘ī school, this opinion is found in the writings of al-Sharbīnī (d. 977/1569)<sup>242</sup> and al-Haythamī (d. 974/1566)<sup>243</sup>. In the Ḥanbalī school, this opinion was held by al-Manṣūr al-Bahūtī (d. 1051/1641)<sup>244</sup>, al-Mardāwī (d. 885/1480)<sup>245</sup>, and Muḥammad ibn ‘Abd al-Wahhāb (d. 1206/1791).<sup>246</sup> Opinions about acceptance of usurpation can also be found in the works of independent scholars, such as Waliyy Allāh al-Dahlawī (d. 1176/1762).<sup>247</sup>

Regarding the above facts, the questions that arise are why, after the seventh/thirteenth century, the scholars' views tended to merge and become synchronized and why there is no longer a different trend in addressing usurpation.

I argue that the answer to these two questions lies in an epistemological concept called *taqlīd*. The views of post-seventh century scholars regarding usurpation were shaped and primarily determined by this concept and practice. *Taqlīd* is an epistemological concept in Islamic jurisprudence, which means “adhering to an existing

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<sup>241</sup> Muḥammad ibn ‘Arafa al-Dasūqī al-Mālikī, *Hāshiya al-Dāsūqī ‘alā al-Sharḥ al-Kabīr*, (Beirut: Dār al-Fikr), IV: 298. See also, Abū al-‘Abbās al-Ṣāwī al-Malikī, *Bulgha al-Sālik li Aqrab al-Masālik (Hāshiya al-Ṣāwī ‘alā al-Sharḥ al-Ṣaghīr* (Dār al-Ma‘ārif, n.d.), IV: 427; Muḥammad ‘Ulaiysh al-Mālikī, *Minaḥ al-Jalīl Sharḥ Mukhtaṣar al-Khalīl* (Beirut: Dār al-Fikr, 1989), IX: 196.

<sup>242</sup> Shams al-Dīn al-Khatīb al-Sharbīnī, *Mughnī al-Muhtāj ilā Ma‘rifa Ma‘ānī Alfāz al-Minhāj* (Beirut: Dār al-Kutub al-‘Ilmiyya, 1994), V: 423.

<sup>243</sup> Aḥmad ibn Muḥammad Ibn Ḥajar al-Haytamī, *Tuhfā al-Muhtāj wa Hawāshī al-Sharwānī wa al-‘Ibādī* (1408), IX: 78.

<sup>244</sup> Manṣūr ibn Yūnus al-Bahūtī al-Ḥanbalī, *Sharḥ Muntahā al-Irādāt* (‘Ālam al-Kutub, 1993), III: 388.

<sup>245</sup> ‘Alā’ al-Dīn al-Mardāwī al-Ḥanbalī, *al-Inṣāf fi Ma‘rifa al-Rājiḥ min al-Khilāf* (Dār Iḥyā al-Turāth al-‘Arabī), X: 310.

<sup>246</sup> Muḥammad ibn ‘Abd al-Wahhāb, *Uṣūl al-Īmān*, ed. Bāsim Fayṣal al-Jawābira (Wizāra al-Shu‘ūn al-Islāmiyya wa al-Awqāf wa al-Da‘wa wa al-Irshād, 1420), 15.

<sup>247</sup> Al-Shāh Waliyy Allāh al-Dahlawī, *Izāla al-Khafā’ ‘an Khilāfa al-Khulafa’*, ed. Dr. Taqīyy al-Dīn al-Nadwī (Damascus, Dār al-Qalam, 2013), I: 95-96.

legal system and restricting novel reasoning or interpretation.”<sup>248</sup> This concept appears and becomes pervasive in Islamic intellectual history post-medieval period due to at least two factors.<sup>249</sup> First, it emerged because the jurists realized the importance of seeking consistency, uniformity, and legal certainty.<sup>250</sup> Jurists realize that the character of law is a certainty, not a continuous change. Second, it arises to limit a ruler’s intervention, discretion and manipulation of Islamic law. *Taqīd* as an epistemological apparatus obliges Muslims to follow legal precedents. As Fekry maintains: “Under the mature regime of *taqīd*, most jurists, who were, in theory, not allowed to depart from their school doctrine ...”.<sup>251</sup> In other words, it demands inertia, stability, coherence, and continuity with larger ideas in the school. *Taqīd*, in turn, stabilizes the law and makes it locked from any ruler who wants to intervene at his will.<sup>252</sup>

It is also important to note that two facts symptomize the flourishing of *taqīd* in Islamic tradition. First, *taqīd* can be seen in the emergence of a hierarchy of jurists. According to this hierarchy, only a school’s eponym can freely take a stance without being bound by past precedents. People who are not an eponym cannot make independent reasoning. Second, it can be noticed in the emergence of a jurist whose

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<sup>248</sup> Ahmed Fekry Ibrahim, “Rethinking the Taqlid Hegemony: An Institutional, Longue-Durée Approach,” *Journal of the American Oriental Society* 136, no. 4 (2016): 804, <https://doi.org/10.7817/jameroriesoci.136.4.0801>.

<sup>249</sup> Historically, there have been scholarly debates about when *taqīd* emerged in Islamic thought. However, the historicity of this concept is beyond this dissertation. What is essential is that in the case of usurpation of power, the practice of imitation only became a phenomenon in the seventh century.

<sup>250</sup> Therefore, orientalist are incorrect when they maintain that that *taqīd* is a blind imitation and a symbol of decadence. See, Mohammad Fadel, “The Social Logic of Taqlid and the Rise of the Mukhataṣar,” *Islamic Law and Society* 3, no. 2 (1996): 193–233, <https://doi.org/10.1163/1568519962599122>.

<sup>251</sup> Ahmed Fekry Ibrahim, *Pragmatism in Islamic Law: A Social and Intellectual History*. (Syracuse University Press, 2017), 13

<sup>252</sup> Jackson, *Islamic Law and the State*, 185-217.

position is considered to be *murajjih* (weigher on a spectrum of opinions). Such a jurist gathered different opinions of scholars of the *madhhab* from the previous centuries then determined which opinion among which was the strongest. That opinion of weigher scholar would then become the official stance of the *madhhab* and constitute the sole authoritative legal pronouncement. Thus, in the *taqlid* regime, an opinion followed later was not necessarily that of the school's founder, but rather what this weigher jurist considered the most solid one.<sup>253</sup> The opinions of jurists and the reports that can be attributed to the eponyms written prior to the standardization by the weigher were too numerous and, therefore, could not be taken randomly.

The above two facts are also present in the ulama's discourse of usurpation after the coming of *taqlid* regime. For instance, in the *madhhab* Shāfi'ī, the scholars who lived after the seventh/thirteenth century, chose al-Nawawī's legal pronouncement and repeated it in their legal manuals. Al-Nawawī's writing is considered as the peak and the argument (*ḥujja*) which all scholars of the *madhhab* have to follow. Therefore, what is written in Ibn Jamā'a's book and that of the ulama who come after him in the *madhhab* al-Shāfi'ī who place the usurpation as the third technique to establish imamate is no other than what has been promulgated by al-Nawawī. It is noteworthy that the subsequent Shāfi'ī ulama were certainly aware of the prior literature and opinions, such as that of al-Juwaynī, al-Māwardī, and al-Ḥalīmī or even al-Shāfi'ī's political stance. However, for the sake of uniformity and stability of law, the ulama would always refer to the legal statement of al-Nawawī.<sup>254</sup>

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<sup>253</sup> Fadel, "The Social Logic of Taqlid," 215-24; El Shamsy, "The Ḥāshiya," 291-3; Jackson, *Islamic Law and the State*, XXVI, 73-96, 152-161.

<sup>254</sup> In this regard, El Shamsy maintains: "Shāfi'ī jurists seem to have reproduced only those quotations from earlier authorities that they had received through al-Nawawī; they abstained from consulting pre-Nawawī works directly and did not use them in their own writings". El Shamsy, "The Ḥāshiya," 295.

Another remarkable thing to note when it comes to the case of usurpation is the phenomenon of legal borrowing. The formal view of *madhhab* al-Shāfi‘ī, as constructed by al-Nawawī, influenced not only al-Shāfi‘ī jurists’ opinion, but also other *madhhabs*. As Kunākata documents, the ulama from other *madhhabs*, particularly the Mālikis and the Ḥanafīs, do not only follow the substantive opinion of *madhhab* al-Shāfi‘ī, but also employ the same wording.<sup>255</sup>

To sum up, I argue that, due to the influence of the epistemology of *taqlīd* in Islamic law, the ulama of the four popular Sunnī *madhhab* had to always refer to the standardized formal opinion in the later period in their respective schools. There is a formal boundary which they must obey and follow. This, in turn, makes diversity or dissenting opinions difficult to emerge. Until the eighteenth century, one can finally read a report from Muḥammad ibn Abdul Wahhāb, a Ḥanbalī jurist, who says that the ulama from all schools agreed to accept usurpation.<sup>256</sup> Eventually, it can be convincingly said that the pre-modern century ended with the scholars’ agreement that usurpation is an acceptable method to establish an imamate.

### Conclusion

In general, the discourse of pre-modern scholars regarding the usurpation of power can be categorized into two types. The first type is what I call practical discourse, namely a discourse in which ulama take a stance regarding usurpation events in early Islamic history. They generally do not discuss the issue of usurpation from an abstract and theoretical level. Instead, they take a particular viewpoint regarding the legitimacy of

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<sup>255</sup> Kūnākātā, *al-Nazariyya al-Siyāsiyya*, 48, 50.

<sup>256</sup> ‘Abd al-Raḥmān ibn Muḥammad ibn Qāsim, ed., *al-Durar al-Saniyya fī al-Ajwiba al-Najdiyya: Majmū‘a al-Rasāil wa Masā’il Najd al-A‘lām min Aṣr al-Shaikh Muḥammad Ibn ‘Abd al-Wahhāb ilā ‘Aṣrinā Hādhā*, 1996, IX: 5.

these historical events. In the first period or the formation period, almost all ulama's discourse belongs to this category.

The second type is what I call theoretical discourse. It is a discourse that explains the usurpation of power by detaching the issue from specific historical events. In other words, what the scholars do when discussing usurpation is abstracting ideas. The theoretical discourse is cosmopolitan in nature, meaning its contention appears boundless by time and space. It employs generalizing and prescribing phrases. This state of being cosmopolitan text contrasts with the practical discourses, which are contingent in nature.<sup>257</sup> It also treats the issue of usurpation in relation to other methods of establishing imamate. This approach was initiated by al-Jāhīz in the early period and became a general trend in the classical and post-classical periods.

The next general observation is regarding the evolution of three types of usurpation, namely control over an *imam*, local seizure, and overthrow of an *imām*, in the ulama discourse. The control of an *imām* (*al-ḥijr*), or what I called in the chapter one as *hegemony*, by military commanders was not the subject of discussion of scholars who lived in the early era because such phenomenon does not exist yet. In other words, the caliphs were still powerful. It rather emerged in the classical period, particularly at the hand of al-Māwardī. However, this issue does not last long as a discourse of scholars. After al-Juwaynī, it disappeared from the ulama's discussion. The fact that a caliph is getting weak and turning into a figurehead, and the *sulṭān* becomes too powerful is no longer a legal problem for the ulama. As such, they accept the fact that a foreign power

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<sup>257</sup> These two terms have been introduced by Brinkley Messick in his work *Shari'a Scripts*. The contingent texts are those that are meant to address specific issues and events, which eventually make them circumstantial in nature. The cosmopolitan texts are "non-contextually referential discourse...[which] enabled such texts to travel, to relocate." Brinkley Messick, *Shari'a Scripts: A Historical Anthropology* (Columbia University Press, 2018), 20-30.

seizes an *imām* or a caliph. In the later legal works, particularly among the Ḥanafīs starting from al-Tarsūsī, a *sultān* is even equated with an *imām* himself.

Like the issue of control over an *imām*, local seizure (*al-istilāʿ alā al-imāra*) or what I previously called separatism was also not a subject of discussion of scholars who lived in the early period. This is the case because such a phenomenon has not transpired yet in the first two centuries of Islamic caliphate. Instead, the discourse about local seizure emerged for the first time at the al-Ḥalīmī's writing in the classical period, followed by al-Māwardī and by Ibn Jamāʿa in the post-classical period. After Ibn Jamāʿa, it was no longer a concern for scholars. The reason for this disappearance is that ulama are realistic. They see that decentralization of Islamic governance has become a given fact and uniting independent dynasties under a single administration is impossible. Therefore, the ulama allowed a strong military person to appoint himself as a ruler of an autonomous province without a caliph's appointment or intervention as long as he still recognizes the legitimacy of a caliph.

The issue of illegal coup against an *imām* (*ghalaba alā al-imām*) had also been developing over time. Al-Jāḥiẓ from the third or the ninth century accepted usurpation theoretically but also encouraged people to overthrow a usurper. In the next era (the classical period), scholars had different opinions regarding usurpation. Al-Ḥalīmī emphasized the legitimacy of an existing ruler, but he was willing to negotiate if a usurper was militarily too strong. Al-Qāḍī ʿAbd al-Jabbār rejected a historical usurpation of Muʿāwiya against ʿAlī. Al-Juwaynī accepted a usurper with the condition that he must be competent and supported by military force. Al-Māwardī rejected an act of enemies who captures an *imām* and install another person in the office.

When it comes to the post-classical period, the views of the scholars tended to synchronize. All scholars who lived during this period accepted the phenomenon of



illegal overthrow of an *imām*. This is evident in the discourse of Ibn Qudāma, al-Nawawī, Ibn Jamā‘a, and al-Kamāl ibn al-Humām. They all agree to no longer require competence and integrity of a usurper in their discourse. Therefore, anyone who rises to power by force is acceptable, including a corrupt ruler. The reason for their acceptance is the logic of necessity (*darūra*) and avoiding chaos (*fitnas*). Al-Nawawī and Ibn Jamā‘a, however, only accept usurpation in the political vacuum and against another existing usurper.

It is also remarkable that in the seventh century, particularly after al-Nawawī and Ibn Jamā‘a, the discourses of ulama on usurpation became narrowed into a single stance. All of the scholars from different schools accepted usurpation to establish imamate. From this period onward, the discussion of a usurpation became very simple. The ulama omitted the complexity of cases and ramification of the issue. This agreement to accept usurpation was motivated by the historical fact of the pervasiveness of usurpation in history, particularly during the Mamlūk period. Eventually, at the end of the pre-modern period, accepting usurpation became the norm and consensus of different schools of thought. Since this period, there is no longer any dissenting opinion on usurpation. This agreement becomes possible thanks to the concept of *taqlīd* that bound ulama with the formal opinion of the *madhhab* in the past and restrict them from taking any novel ideas.

These facts indicate a process of evolution of ulama discourse from the period of formation into the stage of a diversity of outlooks and ended up in uniformity. The material contexts and discursive intellectual tradition go hand in hand in shaping the substantive opinion and the approach of the ulama.

In the modern period, this latest development of ulama discourse in the state of uniformity will change. Ulama will split into different tendencies in the issue of usurpation. I will attend to this shift in the next chapter.

CHAPTER FOUR  
THE DISCOURSE OF THE ULAMA IN THE EARLY TWENTIETH CENTURY  
ON USURPATION OF POWER

“There is no standing ground, no place for enquiry, no way to engage in the practices of advancing, evaluating, accepting, and rejecting reasoned argument apart from that which is provided by some particular tradition or other.”

(Alasdair MacIntyre)<sup>1</sup>

*Introduction*

The previous chapter has explained the development of the discourse of *taghallub* (usurpation) from the formation period in the second/eighth century until the ninth/fifteenth century. This chapter describes the position of the ulama in modern times, especially those who lived in the early twentieth century of the common era or the thirteenth century of the Islamic era, and how they attempt to reshape or, by contrast, defend the pre-modern idea. Unlike the previous chapter, which I arranged chronologically, in this chapter, I explain the topic of usurpation based on the typology of the ulama’s approach.

The specific questions which I will answer in this chapter are: what are the views of modern ulama on *taghallub*? To what extent have both pre-modern and modern intellectual traditions influenced the discourse of modern ulama? What discursive strategies do the modern ulama employ? Why are there differences between these scholars?

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<sup>1</sup> MacIntyre, *Whose Justice? Which Rationality?*, 355.

In his study of modern Islamic authority, Muhammad Qasim Zaman categorizes ulama into “internal critics” and “defenders of tradition”. He defines the first as scholars who “seek to unsettle and refashion particular ideas” from tradition.<sup>2</sup> He distinguishes the second as scholars who attempt to defend pre-modern concepts from any change.

Zaman’s classification is helpful as a starting point to see with the eye-bird view the visions of the ulama about tradition. In due course, I will refer to it in this chapter. However, one apparent weakness of this classification is that it does not spotlight the specific modalities of how modern ulama formulate their thoughts and construct their discourse. In this chapter, I classify the modern ulama’s approach based on how they interpret the pre-modern idea of usurpation and to what extent they are willing to reform classical discourse. The four categories I use are reformist, secularist, apologist, and conformist. The definition of these terms will become apparent in their respective sections.

The central argument of this chapter is that the modern period witnessed the disruption of ulama’s discourse of usurpation. Unlike the pre-modern period, where eventually views of all schools of thought merged at a particular stance, the modern period witnessed a plurality of outlooks in dealing with the issue of usurpation. Some ulama accept western political ideas, namely constitutionalism and the role of the *umma*, in their epistemology. When they criticize the historical practices of usurpation, they put forward these concepts as an alternative. Some other ulama are more preoccupied with justifying the existing pre-modern norm than exercising auto-criticism, even though they accept western ideas tacitly. Other ulama embrace western political cosmology altogether and pay lip service to Islamic tradition. Still, others hold the idea of Islamic self-sufficiency, drawing only on pre-modern intellectual legacy (*turāth*) and

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<sup>2</sup> Qasim Zaman, *The Ulama in Contemporary Islam*, 34-35.

neglecting development in western political thoughts. However, despite the nuance of approaches of Muslim scholars, what remains the same and continues with the pre-modern tendency is two things, namely: the ulama's reliance on the language of tradition and the acceptance of the discourse of usurpation as an exigent solution. Therefore, in the case of usurpation, modernity, despite being able to change the uniformity of scholarly approach to the issue of usurpation, does not lead to what MacIntyre calls "dissolution of historically founded certitudes."<sup>3</sup>

I divide this chapter into five parts, namely: *first*, the views of the reformists represented by Muḥammad Rashīd Riḍā and 'Abd al-Razzāq al-Sanhūrī; *second*, the views of the secularist ulama represented by 'Alī 'Abd al-Rāziq; *third*, the views of apologetic scholars embodied by Muḥammad Ḍiyā' al-Dīn al-Rayyis; *fourth*, the views of the conformists represented by Ibn Ḍuwayyān; and *fifth*, an analysis of the similarities and differences between these four orientations regarding engagement with tradition and modernity. In conclusion, I explain why disruption occurred in the modern period. I chose these figures as representations of the modern period because they contribute significantly to either persistence or advancement of the issue of usurpation of power.

Before explaining the content of the ulama's discourse on usurpation, I will first describe the socio-political context as the background of their thoughts.

### *The Fall of the Ottoman and the Caliphate Discourse*

As a matter of fact, the topic of usurpation is one of the topics associated with the caliphate that numerous modern ulama address in their intellectual projects, particularly after the dissolution of the sultanate and the caliphate of the Ottoman. The ulama's views, in other words, were mainly shaped by this most remarkable political event of the

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<sup>3</sup> MacIntyre, *Whose Justice? Which Rationality?*, 362.

modern period in the Sunni Muslim world. They write this issue to either reconstruct or deconstruct the caliphate institution. To understand their discourses, therefore, the general context of the Ottoman political system needs to be explained in advance.

As I stated in chapter 3, since the fourth or tenth century, besides a caliph, a new position emerged in the Abbasid system of government. During the occupation of the Buyids, this position was referred to as *amīr al-`umarā`*. In the period of the Saljūq Dynasty, the more widely used term to denote this position was *sulṭān*. In the Ayyubid and the Mamlūk period, this position was called *al-sulṭān al-mālik* or *al-sulṭān al-mu`azzam*. In short, those different terms referred to the position of an actual ruler of the Abbasid office who rules a certain territory, and in most cases, also controlled the caliphs as a figurehead. Therefore, in the medieval Islamic governmental structure, two kinds of leading political positions existed: the caliphs, who regulated only religious affairs and served as a symbol of the continuity of political system with the prophetic era, and the *sulṭāns*, who regulated daily administration and politics.

This dualist rulership system lasted for several centuries until it became defunct in 922/1517 when *Sulṭān* Sālim I conquered Egypt and defeated the Mamlūks. In addition to detaining the last Abbasid caliph, al-Mutawakkil, the *Sulṭān* also moved the political center of the caliphate from Cairo to Constantinople.<sup>4</sup> Thenceforth, the *sulṭāns* of the Ottomans proclaimed themselves as caliphs of the Islamic world and bore the title *amīr al-mu`minīn* (the leader of believers) and *khādīm al-ḥaramayn al-sharīfayn* (the Servant of the Two Holy Places).<sup>5</sup> The *sulṭān* is no longer a mere deputy of a caliph or a daily executor, as the case in the previous periods, but a caliph himself. In other words,

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<sup>4</sup> T.W. Arnold, *The Caliphate*, ed. Sabrina Lei (Rome: Tawasul International, Center for Publishing, Research and Dialogue, 2019), 117.

<sup>5</sup> Hassan, *Longing for the Lost Caliphate*, 145; Azmi Özcan, *Pan-Islamism: Indian Muslims, the Ottomans and Britain (1877-1924)* (Leiden: Brill, 1997), 1-3.

since the period of the Ottoman, the caliph is the *sulṭān*, and the *sulṭān* is the caliph.<sup>6</sup> As a consequence of this political development, political theorists, especially the Ḥanafī jurists who served for the Ottoman, pronounced that a caliph does not have to be an Arab from the Quraish tribe.<sup>7</sup>

The phenomenon of uniting the titles of *sulṭān* and caliph lasted for 351 years. It persisted from 922/1571 until 1340/1922.<sup>8</sup> In this year, Mustafa Kemal Atatürk, who just became the head of the modern Turkey parliament, decided to change the system. He abolished the institution of the sultanate but retained the institution of the caliphate. To say it differently, Atatürk eliminated only the position of a *sulṭān* who had the executive authority and left the caliphate institution whose function was only spiritual.<sup>9</sup>

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<sup>6</sup> The integration of the position of the *sulṭān* and the caliph in the Ottoman dynasty motivated the ulama to formulate theological justification. This justification is needed to convince people who see this phenomenon as a new precedent in Islamic history. It was a scholar named Luṭfī Pasha (d. 970/1562) who lived during the time of Sulaiman the Magnificent, the greatest Ottoman ruler, who wrote an article entitled *Khalāṣ al-Umma fī Ma'rifa al-ʿImma* (Salvation of the Community in Recognizing the Leaders). In this treatise, he contends: “Our 'ulama (God have mercy on them) have said, “What is meant by the *sulṭān* is the *khalīfa*”. In another place he states: “The *khalīfa* is the *imām* above whom there is no [other] *imām*, and he is called the *sulṭān*”. Luṭfī Bāshā, *Khalāṣ al-Umma fī Ma'rifa al-Imāma*, ed. Dr. Mājida Makhlūf (Cairo: Dār al-Āfaq al-ʿArabiyya, 2001), 43. This translation is quoted from Hamilton A. R. Gibb, “Luṭfī Pasa on the Ottoman Caliphate,” *Oriens* 15 (December 31, 1962): 287–95, <https://doi.org/10.2307/1579854>, 289-290. Read also, Hüseyin Yılmaz, *Caliphate Redefined: The Mystical Turn in Ottoman Political Thought* (Princeton and Oxford: Princeton University Press, 2018), 80. I made a slight adjustment with the transliteration.

<sup>7</sup> However, it should also be noted that long before the conquest of Egypt by Sālīm I and Sulaimān the Magnificent in the 16th century, the view that a caliph does not have to be from the Quraysh was actually quite well established, especially among the Hanafī school. As I mentioned in the previous chapter, Najm al-Dīn al-Turtūṣī (d. 758/1357) already made the same contention. See, al-Turtūṣī, *Tuḥfa al-Turk*, 68, 71.

<sup>8</sup> Israel Gershoni and James P Jankowski, *Egypt, Islam, and the Arabs: The Search for Egyptian Nationhood, 1900-1930* (New York and Oxford: Oxford University Press, 1986), 55-6.

<sup>9</sup> The last sultan-caliph of the Ottoman was Mehmet VI Vahideddin. After overthrowing him, the Grant National Assembly appointed Abdul Majid II who only served as caliph.

A series of other political events ensued after the dissolution of the sultanate in 1922. In 1923, the Grand National Assembly of Turkey announced the founding of the Republic of Turkey and appointed Mustafa Kamal as its first president. Finally, the culmination of the decline of the Ottomans happened with the dissolution of the caliphate institution altogether in 1924. Since then, the caliphate system, which had lasted for one thousand three hundred years since the Prophet Muhammad's death, disappeared from the political reality of modern Muslims' life.

The cessation of the sultanate and the caliphate institutions triggered various responses from Muslims worldwide, from rulers and scholars alike. Among Muslim rulers, in the same year, Sharīf Ḥusayn, the ruler (*amīr*) of Makkah, proclaimed himself as a new caliph of the Islamic world.<sup>10</sup> Furthermore, scholars of al-Azhar initiated the Central Khilafat Movement in 1924.<sup>11</sup> This movement planned to hold an Islamic world congress in 1925 and finally convened it in 1926 with only a few participants, failing to restore the caliphate system.<sup>12</sup>

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<sup>10</sup> This claim was rejected by many parties, especially from Egypt. See, Gershoni and Jankowski, *Egypt, Islam, and the Arabs*, 57. However, this claim was supported by Muslims from the Levant and Sayyid circles from Southeast Asia and some parties from the Khalifat movement in India. Mona, *Longing for the Lost Caliphate*, 173-5.

<sup>11</sup> Much researchers have written on this Congress and Movement, of which are: A C Niemeijer, *The Khilafat Movement in India, 1919-1924*. (The Hague: Martinus Nijhoff, 1972); Gail Minault, *The Khalifat Movement: Religious Symbolism and Political Mobilization in India* (New York; Guildford: Columbia University Press, 1982), Martin van Bruinessen, "Muslims of the Dutch East Indies and the Caliphate Question," *Studia Islamika* 2, no. 3 (March 30, 2014): 115–40, <https://doi.org/10.15408/sdi.v2i3.829>; M. Naeem Qureshi, *Pan-Islam in British Indian Politics: A Study of the Khilafat Movement, 1918-1924* (Leiden; Boston: Brill, 1999), Reza Pankhurst, *The Inevitable Caliphate? A History of the Struggle for Global Islamic Union, 1924 to the Present* (New York, N.Y.: Oxford University Press, 2013); Hasan, *Longing for the Lost Caliphate*.

<sup>12</sup> Hassan noted that 29 international delegates only attended this congress out of 610 total invitees. See Hassan, *Longing for the Lost Caliphate*, 209. Gershoni and Jankowski add that the present envoys did not want to claim that they were representatives of their organization or country. They only represent themselves. See, Gershoni and Jankowski, *Egypt, Islam, and the Arabs*, 65.



Another point worth noting is that, apart from collective responses through the Caliphate Congress, the response of the ulama to the collapse of the Ottoman institution was also individual. Several ulama wrote academic treatises in response to this great tragedy. Most of them did so to protest the separation between the sultanate and caliphate systems and to seek to reestablish the caliphate system, such as Muḥammad Rashīd Riḍā and ‘Abd al-Razzāq al-Sanhūri. Others wrote books and articles to support this disbandment, such as ‘Alī Abd al-Rāziq. Others ulama authored to refute the views of the latter scholar who embraces western political philosophy. In their work on the caliphate, these ulama also wrote ideas about the issue of *al-taghallub*. As such, this topic is one of many issues about the caliphate which they reformulated in the period of political crisis. The views of these scholars will be explained in the following sections.

### *The Discourse of the Ulama*

#### The Reformists’ Approach

As I described in chapter 3, in the ninth or fifteenth century, *al-taghallub* was already accepted as part of the Islamic political system by scholars from almost all schools of jurisprudence and theology. The position of *al-taghallub* has been established as the third method of establishing imamate after the method of testamentary appointment and election by committees in the books of *fiqh* and *kalām*. Pre-modern ulama legitimize usurpation with the logic of necessity to avoid bloodshed and consider it a deviation from the norm. Accepting *al-taghallub* is like eating carrion in an emergency: it is disliked but must be done to avoid extinction.

Another important phenomenon is that after the 7th/13th century, the ulama tended to avoid discursive changes regarding usurpation. What they did was affirming

the opinion that was already formalized in their respective *madhhab* without proposing any alternative system. Besides the pervasiveness of epistemology of *taqlīd*, the absence of critiques toward the established norm became possible thanks to the lack of radical new context that necessitates changes of ideas. In other words, the ulama did not refashion the concept of usurpation because the Islamic caliphate still existed.

The discursive change appeared for the first time in the 13<sup>th</sup>/20<sup>th</sup> century through two reformist scholars, namely Muḥammad Rashīd Riḍā and ‘Abd al-Razzāq al-Sanhūrī. Their writings on the caliphate were published in 1922 and 1926, respectively. In their treatises, they sought to retrieve the system that Mustafa Kemal Atatürk had just abolished. Apart from familiarizing or introducing traditional concepts, they also saw the need to critique and revise several traditional concepts. This includes criticism and revision of the usurpation of power.

#### *Muḥammad Rashīd Riḍā: Critiques to Pre-modern Tradition*

Muḥammad Rashīd Riḍā was born in Lebanon in 1865 and died in Egypt in 1935, eleven years after the dissolution of the caliphate of the Ottomans. He is known as one of the most prominent advocates of the *iṣlāḥ* (reformation) movement. Apart from being a scholar who has written many intellectual works, he is also a leading journalist. The magazine he manages, *al-Manār*, has a vast reach of influence and readers, extending to Southeast Asia.<sup>13</sup>

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<sup>13</sup> Jutta E Bluhm, “A Preliminary Statement on the Dialogue Established between the Reform Magazine al-Manar and the Malayo-Indonesian World,” *Indonesia Circle. School of Oriental & African Studies. Newsletter* 11, no. 32 (November 1983): 35–42, <https://doi.org/10.1080/03062848308729564>; Azyumardi Azra, “The Transmission of Al-Manar’s Reformism to the Malay-Indonesian World: The Cases of Al-Imam and Al-Munir,” *Studia Islamika* 6, no. 3 (March 30, 2014): 75–100, <https://doi.org/10.15408/sdi.v6i3.723>.

Riḍā was very active in responding to various political dynamics throughout his life. However, it should be noted that, as Haddad points out, his attitude was not always consistent regarding the Ottoman caliphate.<sup>14</sup> At first, especially when the Ottomans suffered from the defeat of World War I, Riḍā had planned to establish the Arabic Caliphate with Makkah as the spiritual center and Damascus as the headquarter of the government. At that time, he saw the Ottomans already fall into the Europeans' hands and could not be saved.<sup>15</sup> In 1915, Riḍā even compiled “the General Organic Law of the Arab Empire” as a concept for the Arabic caliphate, which he submitted to the British authorities.<sup>16</sup> He also supported the revolt of Sharīf Ḥusayn, the *amīr* of Ḥijāz, against the Ottomans in 1916.<sup>17</sup> However, in 1921 he withdrew support from Ḥusayn and instead supported the Ottomans. This is because Ḥusayn did not support the independence of Syria and Iraq from the British occupation.<sup>18</sup>

In *al-Khilāfa*, which he wrote after the decline of Mehmed VI and after the dissolution of the Ottoman sultanate in 1922, Riḍā called for the unity of the Turks and Arabs to rebuild the Islamic caliphate.<sup>19</sup> According to him, these two ethnic groups have different potentials which can complement and support each other to reestablish the

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<sup>14</sup> Mahmoud Haddad, “Arab Religious Nationalism in the Colonial Era: Rereading Rashīd Riḍā’s Ideas on the Caliphate,” *Journal of the American Oriental Society* 117, no. 2 (April 1997): 253–77, <https://doi.org/10.2307/605489>.

<sup>15</sup> Haddad, “Arab Religious Nationalism,” 263.

<sup>16</sup> Haddad, “Arab Religious Nationalism,” 269.

<sup>17</sup> Haddad, “Arab Religious Nationalism,” 269.

<sup>18</sup> Haddad, “Arab Religious Nationalism,” 270.

<sup>19</sup> Riḍā, *al-Khilāfa*, 69; Pankhurst, *The Inevitable Caliphate*, 47. Riḍā supports the removal of Mehmed VI by the Grand National Assembly of Turkey led by Mustafa Kemal. The reason for his support was because Mehmed VI was cooperating with the invaders. This means that at a conceptual level, Riḍā positions the Grand National Assembly as a manifestation of *ahl al-ḥall wa al-‘aqq* who has the right to depose the caliph.

Islamic political system. The Turks have the military power, and the Arabs have the intellectual strength, especially the mastery of the Arabic language, which is essential to understand the Quran and Sunna and perform *ijtihād*. Riḍā rejected the claim of the caliphate made by Sharīf Ḥusayn even though he was a Quraysh. For him, Ḥusayn did not meet the other ideal prerequisites.<sup>20</sup>

In the following pages, before I explain Riḍā's view of *al-taghallub*, I shall first describe his views on the methods of selecting a caliph.

In his discussion of the two methods of establishing imamate, Riḍā does two things simultaneously: reiterating the pre-modern traditional concepts and raising several criticisms to them. Regarding the method of appointment (*al-istikhlāf*), Riḍā said it was true that a caliph had the authority to designate a successor. However, a caliph does not have absolute power to do so. He must first consult people of election and get their approval. Riḍā states that in Islamic history, the proper consultation mechanism was only carried once, namely by Abū Bakr to appoint 'Umar. The subsequent leaderships ignored this mechanism, including the companion Mu'āwiya who appointed his son Yazīd. Mu'āwiya even forced certain people and bribed others to accept his appointment. For Riḍā, the appointment of Mu'āwiya and his descendants was against the doctrine of Quran and the Sunna of the Prophet.

Riḍā goes on to advocate for the second traditional method, namely election by *ahl al-ḥall wa al-'aqd*. He reiterates this topic on many occasions throughout the book. Quoting al-Taftāzānī (d.792/1390), a medieval Ash'arī theologian, he explained that *ahl al-ḥall wa al-'aqd* are scholars, leaders, and *wujūh al-nās* (leading people). In addition

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<sup>20</sup> Ḥusayn's weakness, according to Riḍā, is that he relies too much on British power. He is not a *mujtahid*, he is despotic, and does not have military power and wealth. Riḍā, *al-Khilāfa*, 72-3. See also, Haddad, "Arab Religious Nationalism," 275, Pankhurst, *The Inevitable Caliphate?*, 46.

to having specific ideal characteristics, Riḍā quotes al-Nawawī (d. 676/1277) stating that *ahl al-ḥall wa al-‘aqd* must be those who can easily gather and make choices. The novelty in Rida’s discourse regarding *ahl al-ḥall wa al-‘aqd* can be found when he alludes to the *umma* (community) position in politics. He maintains that *ahl al-ḥall wa al-‘aqd* are representatives of community who have authority over the rulers. Therefore, Riḍā declares that *ahl al-ḥall wa al-‘aqd* could depose a caliph.<sup>21</sup> This view of the *umma*'s centrality can be said to be a breakthrough in Islamic political thought.<sup>22</sup>

Another novel concept that he proposes is regarding the traits of *ahl al-ḥall wa al-‘aqd*. He writes that they must be just and knowledgeable, understand the constellation of international politics, and know international laws and treaties. These conditions, which Riḍā requires, are absent from the writings of pre-modern ulama.

After discussing the method of selection, Riḍā then turns to the issue of usurpation. At first glance, the way he structured his writing, where usurpation comes after the two existing methods, gives the impression that his view is not different from that of pre-modern scholars. It implicitly indicates that he puts usurpation as the third method for determining a caliph as pre-modern ulama do. However, as I will show, Riḍā also brings some novelties.

It is true that, in some respects, Riḍā just abides by the established pre-modern norm. For example, citing the views of al-Kamāl ibn al-Humām (d. 861/1457) and Sa‘d al-Dīn al-Taftāzānī (792/1390), Riḍā argues that accepting *al-taghallub* is the same as eating carrion or pigs in an emergency. It is accepted even though it is forbidden. The leadership of a usurper should be upheld because there is an element of coercion in it

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<sup>21</sup> Riḍā, *al-Khilāfa*, 18-19.

<sup>22</sup> Andrew F March has made this suggestion as well in his book *The Caliphate of Man: Popular Sovereignty in Modern Islamic Thought* (Cambridge, Massachusetts and London, England: Harvard University Press, 2019), 60-1.

(*tunfadh bi al-qahr*). Furthermore, the leadership of usurpers is better than living in chaos (*adnā min al-fauḍā*).<sup>23</sup> In this regard, Riḍā quotes chapter al-Nisā' verse 59 from the Quran regarding the obligation to obey a leader and a hadith of the Prophet which mention an obligation to obey a usurper.<sup>24</sup>

The view above illustrates not only Riḍā's pragmatism, but also the strong influence of the pre-modern intellectual tradition in his discourse. The concepts of emergency (*ḍarūra*) and avoiding chaos (*fitna*) that he employs are not new. They are deeply rooted in the Islamic tradition. However, it is worth noting that Riḍā does not stop there. Apart from accepting it, he also denounces and criticizes usurpation. He even encourages a usurper to be overthrown. He states that ousting him when the situation allows is mandatory (*yajibu al-sa'yu dā'imā li izālatihā 'inda al-imkān*).<sup>25</sup> In other words, for him, this system should not be perpetuated. It is this view that distinguishes Riḍā from the pre-modern ulama.

Riḍā then reminds his audience that power should not be treated like a ball, free to be kicked everywhere by usurpers: one can easily overthrow a previous leader. In other words, Riḍā states that power must reach a point of equilibrium. In this regard, he encourages *ahl al-ḥall wa al-'aḳd* to fight back whenever possible against those who acquire power through usurpation and rule oppressively. Moreover, he urges Muslims to learn from several historical experiences where overthrowing dictatorial rulers happened successfully. He mentioned the experience of the Turks who succeeded in ousting a usurper by employing the European system of constitutionalism.<sup>26</sup> Riḍā does not

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<sup>23</sup> Riḍā, *al-Khilāfa*, 38-39.

<sup>24</sup> Riḍā, *al-Khilāfa*, 38.

<sup>25</sup> Riḍā, *al-Khilāfa*, 40.

<sup>26</sup> Riḍā, *al-Khilāfa*, 43.

mention explicitly who this usurper was, but it seems that he refers to caliph-*sultān* ‘Abd al-Ḥāmid II who was demoted in 1909. After deposing his brother, Murād, he ascended to office and then built an absolute regime by dissolving parliament.<sup>27</sup>

Riḍā maintains that the existence of the *ghalaba* system is the root of all damages and disasters (*aṣl al-mafāsīd wa al-razāyā*) that befell Muslims. He argues that the depravity of Muslims is because obedience to a usurper dictator is deemed obligatory, and usurpation is considered legitimate equal to the method of election.<sup>28</sup> Riḍā states that it is ironic that Muslims have no commitment to remedy their political history to the straight path. This reality is in total contrast with the experience of Europeans who can build a better political system. Muslims are satisfied with the oppression of their leaders.<sup>29</sup>

Riḍā then comes back to his critiques to Mu‘āwiya for the second time after he censures him in the section of the designation of an *imām*. He blames Mu‘āwiya for initiating usurpation until it becomes repeated practice in Islamic history.<sup>30</sup> According to Riḍā, Mu‘āwiya could usurp power and maintained it because he bribed the provincial governors to accept him, especially those of Egypt, Syria, and Iraq. He argues that they were easy to bribe because they lived in the Persian and Roman political systems in the previous period and did not qualify as *ahl al-ḥall wa al-‘aqd*. Muslims who are more qualified and morally more robust lived in Makkah and Madinah. These people were the only group at the time who protested Mu‘āwiya for bequeathing the office to his

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<sup>27</sup> It should be noted that the overthrow of ‘Abd al-Ḥāmid II marks the birth of constitutionalism in the Ottoman caliphate. However, ironically, the overthrow of ‘Abd al-Ḥāmid II also led to a weak commitment to the caliphate system.

<sup>28</sup> Riḍā, *al-Khilāfa*, 45.

<sup>29</sup> Riḍā, *al-Khilāfa*, 49.

<sup>30</sup> Riḍā, *al-Khilāfa*, 45.

reprobate son, Yazīd. However, they were outnumbered by people living in other provinces who supported Mu‘āwiya. Riḍā pronounces Mu‘āwiya as a corrupt leader because he threatened the companions of the Prophet who did not give an oath of loyalty to Yazīd during the *ḥajj* season.<sup>31</sup> Riḍā, quoting Ibn Ḥajar al-‘Asqalānī (d. 852/1449) in *Fatḥ al-Bārī*, wrote: the most corrupt people were two persons, namely ‘Amrū ibn ‘Ās when he appointed Mu‘āwiya as caliph, and Mugḥhira ibn Shu‘ba who accepted a bribe to accept Yazīd as the caliph to succeed Mu‘āwiya.<sup>32</sup>

Riḍā’s critique was not limited to Mu‘āwiya only but also the Umayyad dynasty. He contends that the biggest sin of the Umayyads was the abolition of the *shūrā*-based electoral system with the usurpation system.<sup>33</sup> If it were not because of the usurpation system, Islam would have arrived and become the majority religion in mainland Europe. He then refutes the view of the Nāṣibī (a group that favors the Umayyads over the Alids) of his time in Egypt who praised the Umayyads for their achievements in Islamic expansion.<sup>34</sup> According to Riḍā, *al-fatḥ al-Islāmi* (Islamic expansion) occurred not because of the contribution of the Umayyad dynasty but the expansive nature of Islam itself.<sup>35</sup> This means that whoever becomes the caliph or leader at that time, Islam would still expand. Riḍā’s criticism was so harsh to the extent that he leaves no credit for this dynasty.

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<sup>31</sup> Riḍā, *al-Khilāfa*, 46.

<sup>32</sup> Riḍā, *al-Khilāfa*, 46.

<sup>33</sup> Riḍā, *al-Khilāfa*, 47.

<sup>34</sup> A tendency to sanitize the name of the Umayyad dynasty from all this bad stigma is still a phenomenon today, especially among the so-called *salafī*. Read ‘Amrū Baisūnī. [النزعة الأموية عند السلفية المعاصرة \(1\) | الجزيرة نت](https://www.aljazeera.net/news/2022/1/10/1) ([aljazeera.net](https://www.aljazeera.net)), accessed January, 10, 2022.

<sup>35</sup> Riḍā, *al-Khilāfa*, 47.



Riḍā's constructive and critical view of the caliphate and usurpation inspired another reformist figure to write his idea. It was 'Abd al-Razzāq al-Sanhūrī, an expert on positive and Islamic law, who developed Riḍā's ideas to be more holistic and less emotional in tone. The following section will explain his idea.

*'Abd al-Razzāq al-Sanhūrī: Idealism and Pragmatism in Dealing with Usurpation*

'Abd al-Razzāq al-Sanhūrī is a prominent thinker and lawyer in the twentieth who was born in 1895 in Alexandria and died in 1971 in Cairo. His role is central in modernizing and codifying positive law and integrating it with Islamic law in the Arab world. He is a scholar who drafted the revised Egyptian Civil Code of 1948 and several other Arab countries.<sup>36</sup> Besides being a professor of civil law at Cairo University, he also served as a Minister of Education in 1944.<sup>37</sup> However, his bureaucratic and political career was only the next phase of al-Sanhūrī's life. Previously, at the beginning of his career, he was preoccupied more with reviving the institution of the caliphate. Al-Sanhūrī considers the Islamic caliphate paramount because it served as the defender of Islamic law.<sup>38</sup>

His attention to the caliphate issue can be seen from his dissertation at the University of Lion France, which he completed in 1925 when he was 30 years old.<sup>39</sup> He finished this dissertation a year after the dissolution of the caliphate or three years after

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<sup>36</sup> Enid Hill, "Al-Sanhuri and Islamic Law: The Place and Significance of Islamic Law in the Life and Work of 'Abd Al-Razzaq Ahmad Al-Sanhuri, Egyptian Jurist and Scholar, 1895-1971," *Arab Law Quarterly* 3, no. 1 (February 1988): 33–64, <https://doi.org/10.2307/3381741>, 39; Guy Bechor, *The Sanhuri Code, and the Emergence of Modern Arab Civil Law (1932 to 1949)* (Leiden: Brill, 2007), 37.

<sup>37</sup> Hill, "Al-Sanhuri and Islamic Law," 43.

<sup>38</sup> Bechor, *The Sanhuri Code*, 45.

<sup>39</sup> Hill, "Al-Sanhuri and Islamic Law," 44; Bechor, *The Sanhuri Code*, 38.

the dissolution of the sultanate institution. This dissertation also marks the beginning of his career as a Muslim scholar and activist.<sup>40</sup>

In this dissertation, al-Sanhūrī puts forward the idea of the need for Muslims to establish a “true caliphate in accordance with the demands of the times (*khilāfa saḥīha* ‘*alā sūra ‘asriyya*)”<sup>41</sup>, namely a political system that combines the ideals of the classical concept of the caliphate with modern political thoughts from the West. Al-Sanhūrī advocates for the classical concept of Islamic political unity, the modern idea of popular sovereignty (*siyāda sya biyya*), independence of political institutions, and contract that guarantee individual freedom and rights.<sup>42</sup> He also proposes that the authority of a caliph should be limited. The caliph should not do injustice (*zulm*) and abuse his power (*fasād*). He must lead by *shūrā* under the supervision (*riqāba*) of the parliament.<sup>43</sup>

To arrive at the stage of the valid caliphate (*al-khilāfa al-saḥīha*), al-Sanhūrī contends, Muslims need to take systematic and realistic steps simultaneously. For now, however, reestablishing the caliphate in its original form is very difficult. Many limitations surround Muslims, the most fundamental of which is that Muslims have experienced compartmentalization into many nation-states. The basic requirements of an ideal caliphate, namely unity and centralization of government, cannot be fulfilled. Therefore, al-Sanhūrī advocates the concept of an incomplete caliphate (*al-khilāfa al-nāqiṣa*). He calls Muslims to see the nation-state system as an objective reality born

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<sup>40</sup> Later, this dissertation was translated into Arabic by his son-in-law, a Muslim Brotherhood activist, Dr. Tawfiq Shāwī, into *Fiqh al-Khilāfa*. In this study, I refer to the Arabic translation of al-Sanhūrī’s dissertation.

<sup>41</sup> This is a term coined by Dr. Tawfiq Shāwī, an editor and translator of al-Sanhūrī’s dissertation and his son in law. Shāwī, “Introduction” in al-Sanhūrī, *Fiqh al-Khilāfa*, 34.

<sup>42</sup> al-Sanhūrī, *Fiqh al-Khilāfa*, 34.

<sup>43</sup> al-Sanhūrī, *Fiqh al-Khilāfa*, 187-197.

from European colonialism. However, at the same time, he also underlines the importance of coordination and mutual assistance among Muslims to establish a valid caliphate. Islamic countries should not fight each other. More than that, they must help each other when a foreign country fights one Muslim country. They also need to cooperate in the economic and cultural fields.<sup>44</sup> The name that al-Sanhūrī proposes as a unifying forum for the Islamic world before the caliphate reestablished is the Oriental League of Nations (*‘Asāba Umam al-Sharqiyya*).

The term “the ideal and incomplete caliphate” which al-Sanhūrī coins is his conceptual contribution to Islamic political thought. As a matter of fact, it has never existed before in Islamic thought. He explains that the caliphate is considered incomplete when it stands on a false foundation and because of its nature as only a temporary system. It must be developed to become a valid caliphate.

Al-Sanhūrī divides the incomplete caliphate into two categories: the usurping caliphate (*khilāfa muṣaytira*) and the necessary caliphate (*khilāfa iḍtirāriyya*). A usurping caliphate is a government upheld through coercive means: inheritance (*warātha*) or usurpation with violence and power (*‘unf wa qahr*). In this type of caliphate, an oath of allegiance (*bay’a*) still exists, but its nature is still coercive where *umma* does not have the opportunity to determine its leader.<sup>45</sup>

The second type of incomplete caliphate, a necessary caliphate, is a government that does not meet the valid requirements due to factors other than inheritance and usurpation. Al-Sanhūrī mentions four factors as follows. The first is related to the capacity of a caliph. A caliphate degrades into necessary if a caliph is a person who does not fulfill a part or all of the ideal requirements. Muslims can accept this caliph if they

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<sup>44</sup> al-Sanhūrī, *Fiqh al-Khilāfa*, 246-248.

<sup>45</sup> al-Sanhūrī, *Fiqh al-Khilāfa*, 121.

have no other alternative and as long as his leadership is legal.<sup>46</sup> Having an unqualified caliph is better than not having a caliph at all. He quoted the opinion of al-Taftāzānī, who allows the leadership of a Quraysh who does not meet all the traits of the caliph. The second factor relates to the lack of unity in the Islamic world.<sup>47</sup> The third factor is the difficulty of enforcing Islamic law. This, for example, can happen when Islamic leaders import foreign legal systems from Europe and do not apply Islamic law. The fourth factor is the diminishing roles of a caliph, where he has only the authority to regulate religious affairs, not worldly affairs. The last two factors that al-Sanhūrī mentioned above are modern phenomena ensuing in the times of the Ottomans.

After describing the four factors that cause the caliphate to be incomplete, al-Sanhūrī then emphasizes that the caliphate still needs to be enforced in any condition. The imperfection of the situation is not an excuse to remove the obligation to establish the caliphate. This is because the harm born from the incomplete caliphate is much smaller than the harm arising from the total absence of the caliphate system. Al-Sanhūrī argues with the legal maxims, which are: people need to choose a lesser of two evils (*irtikāb akhaff al-ḍararayn*), and the necessity situation leads to its permissibility within limits or not excessively (*al-ḍarūrāt tuqaddar bi qadarihā*).<sup>48</sup>

It is clear that al-Sanhūrī's view above is nothing but a response and antithesis to Atatürk's point of view. The latter disbanded the caliphate with the argument that the caliphate in modern times was incomplete or even void, especially from the aspect of the capacity of the Ottoman sultans. Instead of maintaining a caliphate system that does not meet the ideal requirements, for Atatürk, it is better to use a new administrative and

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<sup>46</sup> al-Sanhūrī, *Fiqh al-Khilāfa*, 232.

<sup>47</sup> al-Sanhūrī, *Fiqh al-Khilāfa*, 234.

<sup>48</sup> al-Sanhūrī, *Fiqh al-Khilāfa*, 236.

political system, namely the nation-state system. In this regard, Atatürk is pragmatic, whereas al-Sanhūrī is both idealistic and pragmatic at the same time.

Another discourse of al-Sanhūrī that relates to the issue of usurpation is the method of establishing imamate. Aligning with the traditional narrative of Islamic political thought, al-Sanhūrī supports the two standard methods for establishing a caliphate. The first method is an election by Muslims, which he places at number one, unlike the pre-modern scholars who put it at number two. The second one is a designation of an existing ruler to the next candidate.

Al-Sanhūrī refashions the first method in several ways. First, he maintains that the election method by *ahl al-ḥall wa al-‘aqd* can be equated with the election system (*al-intikhabāt*) in the concept of modern democracy.<sup>49</sup> Second, al-Sanhūrī distinguishes two phases in this method: the nomination phase (*tarshīh*) and the appointment phase (*tanṣīb*). Whereas many candidates may be submitted in the nomination phase, only one candidate can be elected in the appointment phase. This candidate should gain a majority vote. This division of the selection method into the nomination and appointment phase, which al-Sanhūrī proposes, is novel. In this regard, he combines classical *fiqh* notions with the modern political system.

Third, modifying the concept of *ahl ḥall wa al-‘aqd*, al-Sanhūrī emphasizes that those sitting in this institution must be many. Given that they are representatives of every Muslim region, their number must represent an agreement or acceptance of the majority of the community (*muwāfaqa jumhūr*). In this respect, al-Sanhūrī criticizes al-Māwardī for not requiring a large number of people, even allowing one person to be an embodiment of *ahl ḥall wa al-‘aqd*. Al-Sanhūrī regards al-Māwardī’s view as a misinterpretation of the events of the election of Abū Bakr. In fact, this first caliph was

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<sup>49</sup> al-Sanhūrī, *Fiqh al-Khilāfa*, 123.

sworn in not only by one person on the day when the companions met in the municipal hall of the Sā'ida tribe or only by 'Umar ibn al-Khaṭṭāb as many scholars believe but by a large number of people on the subsequent day. On the day of the meeting, he was still at the nomination stage. As a rule, a caliph may only be proposed by one person at this stage. However, at the time of appointment or *bay'a*, there must be many people exercising it.<sup>50</sup>

Fourth, al-Sanhūrī also rejects the views of pre-modern ulama who consider that what determines a person's leadership is his personal capacity (*ahliyya dhātiyya*), not the contract with *ahl al-ḥall wa al-'aqd*. For him, what raises a candidate to the office of the caliphate is rather a contract or election.<sup>51</sup>

The second method of establishing a caliphate which al-Sanhūrī admits is the appointment of a previous leader. He puts forward several new interpretations of historical events in early Islam regarding this method. He argues that there is a fundamental difference between Abū Bakr's application of this method to appoint 'Umar and that of Mu'āwiya to designate Yazīd. The first was carried out on the basis of the benefit of the Muslims, whereas the second was based on the benefit of the Umayyad family. Al-Sanhūrī, therefore, distinguishes between a real designation (*istikhlāf ḥaqīqī*) and fake designation (*istikhlāf ṣuwarī*). In the first kind of designation, the existing caliph does not choose the family and instead chooses the best person who fulfills all the caliph requirements. In addition, another difference is that in a real designation, there is a process of selection of a candidate, while in the fake appointment, a caliph is permanently assigned based on hereditary.<sup>52</sup>

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<sup>50</sup> al-Sanhūrī, *Fiqh al-Khilāfa*, 123.

<sup>51</sup> al-Sanhūrī, *Fiqh al-Khilāfa*, 128.

<sup>52</sup> al-Sanhūrī, *Fiqh al-Khilāfa*, 129-131.

Another novel view that al-Sanhūrī incorporates into the designation method is the nature of a nomination of a previous *imām*. According to him, an appointment of a caliph is not binding in and of itself. It only serves as a nomination. It does not automatically become a final decision that cannot be changed. What is more important is the agreement of people of election. They may accept or reject candidates proposed by an existing caliph.

Now, we turn to the specific topic of usurpation in al-Sanhūrī's book. He discusses this question extensively in this work. He places this topic in two parts, namely in the section of "things that raise a person to the office of a caliph" and "things that terminate him".

Just like the election by *ahl al-ḥall wa al-'aqd* and an appointment of an *imām*, al-Sanhūrī also accepts usurpation as a method for raising and terminating an *imām*. In principle, for him, usurpation is the lesser of two evils. Acknowledging a usurper's regime is less evil than civil wars.<sup>53</sup> However, it should be noted, that al-Sanhūrī, like Riḍā, also criticizes and reformulates this concept. Even though it is permissible, he believes that usurpation should be considered a last resort. There must be an effort to maintain the legitimacy of a rightful ruler. Supporting a legitimacy of an existing ruler is mandatory. This what Ḥusayn ibn 'Alī believed and did when he fought Yazīd ibn Mu'āwiya and when 'Abd Allāh ibn Zubayr fought 'Abd al-Mālik ibn Marwān, which ended up in their death.<sup>54</sup>

Al-Sanhūrī continues that revolution or resistance against usurpers is permissible and even can be mandatory under two conditions: first, there is a high probability of

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<sup>53</sup> al-Sanhūrī, *Fiqh al-Khilāfa*, 225.

<sup>54</sup> Ḥusayn fought Yazīd who was appointed unilaterally by his father Mu'āwiya by ignoring the legitimacy of the leadership of 'Alī's descendants. 'Abdullāh ibn Zubayr proclaimed himself a caliph in Makkah after the death of Mu'āwiya. See, al-Ṣallābī, *Khilāfa Amīr al-Mu'minīn 'Abd Allāh Ibn Zubair*.

success; and second, the goal is to restore legitimacy. If these two conditions do not exist, a usurper should not be fought. It was also because of these two principles that Ḥasan ibn ‘Alī resigned. He saw that Mu‘āwiya could not be defeated.<sup>55</sup>

Like Riḍā, al-Sanhūrī said that Mu‘āwiya was the most responsible for changing the complete caliphate into the incomplete one. He ascended to the throne through the power of the people of Syria and used the momentum of chaos following the assassination of ‘Uthmān. He then took advantage of the situation after the Khawārij killed the caliph ‘Alī. In other words, Mu‘āwiya did the trick to raise himself to the caliphate.

After Mu‘āwiya, the second figure who contributed to the tradition of usurpation is Abū al-‘Abbās al-Saffāḥ, the founder of the Abbasids. He even used violence to overthrow the Umayyads to achieve his goals.<sup>56</sup> Al-Sanhūrī wrote that to mention al-Saffāḥ’s name as the second figure does not deny the role of the Umayyad caliphs before al-Saffāḥ and his successors in perpetuating the system. They are also violent rulers, even if they did not shed blood like the founder of their dynasty. They are considered usurpers because they used a system that their predecessors built on ferocity. Al-Sanhūrī also rejects the assumption by some people that certain caliphs such as al-Walīd and Sulaiman of the Umayyad dynasty and al-Mahdī and Harūn al-Rashīd of the Abbasids did not undertake usurpation. This is a wrong contention because even though they do not use violence to seize power, in principle, all potential power to protect the leadership was already at their hands.

Al-Sanhūrī continues that a usurper caliph is acceptable, and his leadership can be treated as an incomplete caliphate if he fulfills one condition, which is creating

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<sup>55</sup> al-Sanhūrī, *Fiqh al-Khilāfa*, 226.

<sup>56</sup> al-Sanhūrī, *Fiqh al-Khilāfa*, 227.



security and stability. If he fails to achieve them, the ruling of “the lesser of two evils” will not have any realization and does have any meaning. Thus, his position as a caliph cannot be validated.<sup>57</sup>

One can observe that in terms of his acceptance of usurpation, al-Sanhūrī still follows the pre-modern tradition’s trend. In other words, there is no breakthrough in his discourse. In one aspect, al-Sanhūrī even goes beyond the pre-modern position by declaring that a usurper, whose power is incorrect due to his usurpation, can elevate his status to legitimate rulership for two factors. The first is empirical, namely, when a usurper has achieved military victory. Therefore, al-Sanhūrī maintains, a usurper cannot be called a legitimate caliph if he has not overthrown a previous caliph yet. If he is still in the process of acquiring it, he is worth calling a rebel, and a rightful ruler can still fight him. If he has succeeded in overthrowing an existing ruler and extinguishing all competitors, then he is called a new caliph. In history, this happened when ‘Abd al-Mālik ibn Marwān seized power from ‘Abd Allāh ibn Zubayr. Ulama start considering ‘Abd al-Mālik a caliph only after he defeated all revolutions against him.

The second factor that can improve the status of a usurper is the legal one, namely when a usurper has received an oath of allegiance (*bay‘a*). An oath can give a usurper legitimacy and changes his status because it is an official recognition of Muslims for leadership. However, according to al-Sanhūrī, the degree of oath for an invalid caliphate is different from an oath in a valid caliphate.<sup>58</sup>

Al-Sanhūrī continues his discussion of usurpation in the section on “matters that end a leadership of a usurper (*intihā’ al-khilāfa al-nāqiṣa*)”. In this regard, he divides a usurper into four categories.

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<sup>57</sup> al-Sanhūrī, *Fiqh al-Khilāfa*, 228.

<sup>58</sup> al-Sanhūrī, *Fiqh al-Khilāfa*, 230.

First, suppose a usurper is someone who meets all the eligibility requirements to become a caliph and all conditions of a valid caliphate, such as a political unity of Muslims. A leadership of this kind ends and becomes illegitimate when his power of coercion is lost. This happens particularly when an *umma* refuses to submit to his policies, which they consider to be against the Sharī'a, and when he can no longer compel them to follow him. In this condition, people can announce the illegitimacy of such a usurper.<sup>59</sup> Al-Sanhūrī then continues, if he declares his commitment to upholding Islamic law, his leadership continues, but with a corrupt nature (*fāsida ghair ṣaḥīha*). The corruptness of this caliphate can turn into validity if a caliph stops using a violent approach in his administration and applies *shūra* instead. In Islamic history, this happened in the caliphate of 'Umar ibn 'Abd al-'Azīz.<sup>60</sup>

Second, suppose a usurper is a person who meets all the eligibility requirements, but the main elements of a valid caliphate are not present during his leadership. Like the first type, the leadership of such a usurper ends when military power that supports him has disappeared from his side. This, for example, occurred during the time of Harūn al-Rashīd. He is a usurper caliph who meets the requirements and gets people's approval. His caliphate is exigent (*iḍtirāriyya*) because the condition for the unity of the Islamic world no longer exists. When he became a caliph, the Muslim world had experienced political divisions, namely by the birth of a competing caliphate in Andalusia.<sup>61</sup>

Third, assume a usurper is a person who does not meet eligibility requirements, but elements of the authentic caliphate are all fulfilled in his period. This kind of usurpation, according to al-Sanhūrī, happened to most of the Umayyad and Ottoman

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<sup>59</sup> al-Sanhūrī, *Fiqh al-Khilāfa*, 251.

<sup>60</sup> al-Sanhūrī, *Fiqh al-Khilāfa*, 251.

<sup>61</sup> al-Sanhūrī, *Fiqh al-Khilāfa*, 251.

caliphs, where there was only one caliphate in the Islamic world during their times.<sup>62</sup> Despite their fulfillment of unity requirement, these caliphs still do not meet the qualifications for the caliphate because they generally rose to the office by way of usurpation. In the case of the Ottomans, the sultans were not even descendants of the Quraysh. For al-Sanhūrī, just like the previous two cases, this type of usurper leadership ends when a military power that supported him had disappeared from his side.

Fourth, a usurper is a person who does not meet the eligibility requirements, and the unity of the Islamic world is not fulfilled. So, the nature of the incompleteness is double. This, according to him, occurred in the era of the majority of the Abbasid caliphs and the era of modern nation-states. This leadership ends when military power that supports such a ruler has disappeared from his side. In the meantime, Muslims are obliged to establish a valid caliphate by choosing the best candidate with a free oath of allegiance (not under pressure).

Another noticeable aspect from the description above is that al-Sanhūrī's writing is prescriptive. The regulatory nature of his discourse is evident when he refuses to idealize usurping government and calls it incomplete. He also criticizes the practices of usurpation, which repeatedly happened in Islamic history, starting with Mu'āwīya himself. He also said that resisting a usurper is obligatory in principle. However, his narrative of usurpation in the time of the Umayyad, the Abbasid, and the Ottoman dynasties is rather descriptive. What he did was only classify types of usurpation occurring throughout Islamic history. Even though implicit behind his classification also lies a prescriptive theory. He denigrates usurpation and encourages people with any

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<sup>62</sup> The view that the Ottomans were the sole political authority of Sunni Islam has been challenged by recent research. Azmi Ozcan, *Pan Islamism*, 3, 6-8; Cemil Aydin, *The Idea of the Muslim World: A Global Intellectual History* (Cambridge, MA: Harvard University Press, 2017).

means to fulfill required traits for establishing a complete caliphate and electing an ideal caliph.

A new conceptual element that al-Sanhūrī proposed regarding *taghallub* in his writings is his distinction between *sharī* (legal) and *saḥīḥ* (valid) categories. According to this concept, a usurper can become a legal ruler after the two factors mentioned above are met, but he still does not necessarily become a valid ruler. In other words, according to al-Sanhūrī, a legal rulership is not always a valid rulership. For him, it seems a valid ruler is a rulership acquired with ethical means. However, this novelty in al-Sanhūrī's discourse is not changing the nature of the pre-modern discourse of usurpation, which is permissible according to Islamic jurisprudence.

It seems that al-Sanhūrī proposes the concept of legal caliphate to accommodate an actual need of a ruler. According to the traditional doctrine, the Muslim community cannot live without a leader. Meanwhile, he keeps the category of a valid caliphate to retain the memory of Muslims about the ideal rulership. In other words, he encourages Muslims to act contextually and at the same time think idealistically for the sake of the future.

One thing that is very peculiar in al-Sanhūrī's discourse is that even though he tries to refashion the traditional thought, he still retains the very idea of the caliphate. This is different from the next figure whom I will discuss, namely 'Alī 'Abd al-Rāziq. He wrote about usurpation and the caliphate from a secular point of view. The following section will explain his discourse.

### The Secularist's Approach

The term secularism in this paper refers to a cosmology invented by western political tradition, which has no equivalent in cosmology or Islamic vocabulary. As Talal

Asad said, it is “a political doctrine arose in modern Euro-America.”<sup>63</sup> It is an approach that seeks to separate the political and religious dimensions. This paradigm also views that political authority should not establish its legitimacy on religion.<sup>64</sup> Therefore, the term secularist in this study means a scholar or activist who espouses secularism as a political doctrine and advocates it. One of the early proponents of the idea of secularism in the Islamic world was ‘Alī ‘Abd al-Rāziq.

‘Alī Abd al-Rāziq: *Taghallub* as the Sign of Unreliability of the Caliphate System

‘Alī Abd al-Rāziq is an Azharī scholar who was born in 1888 and died in 1966. He studied at the University of Oxford but did not finish and returned to Egypt due to World War I. In 1915, he served as a judge at the religious court in Manṣūra province. He was also a member of the Liberal Constitutionalist (*al-Aḥrār al-Dustūriyyūn*) Party and the Egyptian parliament. In 1948-1949 he was appointed as a minister of *awqāf*. Like Riḍā, ‘Alī is also the student of prominent reformer, Muḥammad ‘Abduh.<sup>65</sup>

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<sup>63</sup> Talal Asad, *Formations of the Secular: Christianity, Islam, Modernity* (Stanford, California: Stanford University Press, 2003), 1. See also, Ahmed, *What is Islam?*, 176-246; Hussein Ali Agrama, “Secularism, Sovereignty, Indeterminacy: Is Egypt a Secular or a Religious State?,” *Comparative Studies in Society and History* 52, no. 3 (June 18, 2010): 495–523, <https://doi.org/10.1017/S0010417510000289>, Saba Mahmood, *Religious Difference in a Secular Age: A Minority Report* (Princeton, New Jersey: Princeton University Press, 2016), 111-48, 181-207. It is noteworthy that Asad has been credited as a scholar who initiated a field called “a critical study of secularism”. For the latest writings on this field, read Andrew F. March, “Political Islam: Theory,” *Annual Review of Political Science* 18, no. 1 (May 11, 2015): 103–23, <https://doi.org/10.1146/annurev-polisci-082112-141250>.

<sup>64</sup> In the work of anthropologists, this definition of secularism has been criticized. In reality, secularism is not neutrality a state from any religion’s intervention. On the contrary, it is a political ideology that seeks to regulate religion according to certain religious doctrines, namely Protestantism, where religion is believed to be only interiority. See footnote 63 above.

<sup>65</sup> Souad Tagelsir Ali, *A Religion, Not a State: Ali Abd Al-Raziq’s Islamic Justification of Political Secularism* (Salt Lake City, Utah: University of Utah Press, 2009), 55-69.

‘Alī wrote a book entitled *al-Islām wa Uṣūl al-Ḥukm* (Islam and the Foundation of Governance) in Islamic political thought. This book contains controversial views on the caliphate issue.<sup>66</sup> It was published in 1925, a year after the dissolution of the Ottoman caliphate by Mustafa Atatürk, the same year that al-Sanhūrī’s book was published, and three years after the publication of Rashīd Riḍā’s book. ‘Alī chose to publish his book this year because, at that time, the scholars of al-Azhar were preparing to hold the caliphate congress for 1926.<sup>67</sup> Therefore, his work is an intellectual effort to prevent the re-establishment of the caliphate system. As a result of his controversial views in this book, ‘Alī was declared deviant and dismissed from the membership of al-Azhar clerics.<sup>68</sup>

At first glance, ‘Alī’s view does not look problematic, primarily if one uses the modern nation-state lens widely accepted by Muslims today. ‘Alī quoted many verses from the Quran, the prophetic hadith, and the views of classical scholars to support his thesis on Islamic politics. He makes little reference to orientalist works on Islamic politics. However, it should be noted that the secular nature of ‘Alī’s position is not measured by how he uses references, but rather by the content of his arguments and reasoning that supports them. ‘Alī’s views are truly radical and unprecedented for his

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<sup>66</sup> ‘Alī maintains that his original intention in writing this book was to explain the history of justice in Islam. However, because the judiciary issue is closely related to the political system, he inevitably has to touch on the topic of the caliphate. ‘Alī ‘Abd al-Rāziq, *al-Islām wa Uṣūl al-Ḥukm* (Cairo and Beirut: Dār al-Kutub al-Miṣrī, Dār al-Kutub al-Lubnānī, 2012), 3.

<sup>67</sup> Gershoni and Jankowski, *Egypt, Islam, and the Arabs*, 60-63; Meir Hatina, “On the Margins of Consensus: The Call to Separate Religion and State in Modern Egypt,” *Middle Eastern Studies* 36, no. 1 (January 2000): 38-42, <https://doi.org/10.1080/00263200008701296>.

<sup>68</sup> Regarding the decision of the council of al-Azhar scholars about the dismissal of ‘Alī ‘Abd al-Rāziq, see the translation by Pankhurst, *The Inevitable Caliphate?*, 217-220.

time. ‘Alī was a secular political thinker for calling for the separation of religion and state affairs.

Before I explain his views on usurpation, I will first describe his argument about the caliphate.

In general, ‘Alī Abd al-Rāziq’s attitude can be described as follows. He believes that the caliphate system is totally worldly and has nothing to do with Islam. Islam does not encourage the establishment of a caliphate or any political system. This religion came as a spiritual, not a political system. God sent the Prophet Muhammad to deliver religious messages, not to manage worldly administrative affairs. In the last realm, the Prophet left it to human’s mind. This argument, ‘Alī claims, is in accordance with the hadith of the Prophet: “you are more knowledgeable in worldly affairs (*antum a‘lam bi umūr dunyākum*)”.<sup>69</sup> He also quotes Jesus’ statement in the Bible (Mark: 12: 17): “give to Caesar what belongs to Caesar and give to God what belongs to God.”<sup>70</sup>

‘Alī rejects the claims of pre-modern ulama about the obligation to establish the caliphate based on consensus. According to him, this claim has no basis in the Quran and the hadith of the Prophet. There is not a single verse and hadith of the Prophet that is unequivocal which obliges to appoint a caliph.<sup>71</sup> There are indeed verses in the Quran about leadership and several hadiths about the caliphate and *bay‘a*, but none of them directly explain the theological nature of the obligation to establish a caliphate. Instead, they only explain the need for a political system, and any form is acceptable. Thus, because it is not regulated by religion, according to ‘Alī, the caliphate is a worldly domain, not a religious domain.

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<sup>69</sup> ‘Abd al-Rāziq, *al-Islām wa Uṣūl al-Ḥukm*, 112.

<sup>70</sup> ‘Abd al-Rāziq, *al-Islām wa Uṣūl al-Ḥukm*, 30.

<sup>71</sup> ‘Abd al-Rāziq, *al-Islām wa Uṣūl al-Ḥukm*, 25.

‘Alī also maintains that the claim of consensus contradicts historical facts where there have been dissenting opinions among Islamic scholars. Al-Aṣamm from the Mu‘tazila and the Khawārij group, in particular, rejected the obligatory nature of the caliphate.

‘Alī then uses historical arguments to explain that the caliphate system is not essential in Islam and can be replaced by any other system. He quoted Ibn Khaldūn, a medieval historian, who wrote that in the history of Islam, the complete and correct caliphate system only lasted a short time, namely during the thirty years of the rightly guided caliphate.<sup>72</sup> After that, what prevailed is the monarchy system. He then continues that history also shows that after the Mongol attack on the Abbasids, Muslims experienced a vacancy in the caliphate seat for three years. After that, Baybars, the Mamlūk *sulṭān*, appointed a puppet caliph and gave him a place in Cairo. However, all caliphs whom the Mamluk rulers appointed were not recognized outside Egypt. Although most lands did not admit or even recognize the Mamluk caliphs, ‘Alī claims, Muslims’ life continued normally. The above facts, for ‘Alī, show that the caliphate system, in addition to not having a religious basis, is also a system that has not brought many benefits to the people in history. Therefore, it is acceptable if modern Muslims want to dismantle it and replace it with a new system.<sup>73</sup>

Moving to the issue of usurpation, ‘Alī ‘Abd al-Rāziq writes on this topic for a completely different purpose from that of the two previous authors, namely Riḍā and al-Sanhūrī. If the last two figures discussed it to reconstruct and revitalize the concept of the caliphate, ‘Alī did the opposite. He discusses usurpation as a strategy to deconstruct

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<sup>72</sup> ‘Abd al-Rāziq, *al-Islām wa Uṣūl al-Ḥukm*, 51.

<sup>73</sup> ‘Abd al-Rāziq, *al-Islām wa Uṣūl al-Ḥukm*, 137.



the caliphate system itself. In other words, by using the usurpation issue, he wants to show that the caliphate is not a reliable system.

Since ‘Alī’s starting point is the deconstruction of the caliphate, it is not surprising that he no longer follows the conventional approach in writing on this topic. Instead, he embraces the revisionist paradigm of history. For example, he does not discuss the two traditional methods of appointing a caliph, namely election and testamentary appointment, which are common topics in every book on the caliphate. He also does not place usurpation as a third method of raising the caliphate as was generally done by classical scholars. The absence of discussion of these two classical methods in his work coincides with the absence of discussion of modern alternatives on how to elect and demote a caliph.

‘Alī criticizes the caliphate as a system that is synonymous with usurpation and violence. The caliphate in Islamic history, according to him, is a system established with armed coercive power, not a system where the people can choose their leader freely and openly. Violence was a foundation for almost every ruling caliph in Islamic history. They were not hesitant to exterminate anyone who rejected the legitimacy of their leadership. In this case, ‘Alī again quotes Ibn Khaldūn’s statement that in Islamic history, the caliphate system is essentially monarchical where a leadership rotation relies on usurpation and conquest (*al-ghalab wa al-qahr*).<sup>74</sup>

‘Alī mentions several historical facts about violence and usurpation to select a caliph. He mentions the incident of Yazīd’s rise to power in place of his father, Mu‘āwiya. ‘Alī quotes from *al-‘Iqd al-Farīd* by Ibn ‘Abd Rabbih, a story about a propagandist who announced that the caliph in power was Mu‘āwiya. If he dies, his successor will be Yazīd.

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<sup>74</sup> ‘Abd al-Rāziq, *al-Islām wa Uṣūl al-Ḥukm*, 39.

Anyone who opposes will be executed. ‘Alī then mentions the heinous murder committed by Yazīd against the Prophet’s grandson, Ḥusayn. He also mentions the case of ‘Abd al-Mālik ibn Marwān, one of the caliphs of the Umayyad, who dared to spill blood in the Ka‘ba by killing ‘Abd Allāh ibn Zubayr to maintain his power. Next, he mentions Abū al-‘Abbās, the founder of the Abbasids, who killed the Umayyad dynasty’s family, which makes him bear the title *al-Saffāh* (the bloody hand). He also says that the history of the Mamlūk dynasty and the Ottomans was filled with bloodshed because of passion and love for the position of the caliphate.<sup>75</sup> In modern times, according to ‘Alī, the practice of using power can be found in the leadership of Faiṣal ibn Sharīf Ḥusayn who became a king of Iraq.<sup>76</sup>

It is clear from the above narrative that at stake for ‘Alī is not whether the pre-modern usurpation concept should be retained, reformulated, or neglected entirely. Instead, he is more interested in using usurpations in Islamic history as supporting evidence that the caliphate system has nothing to do with Islam. He wanted to show that the caliphate system had many flaws and was unreliable. In essence, he wants to say that the caliphate’s history is full of violence and chaos due to the power struggle. Thus, because of this, Muslims no longer need to revive it, and instead, they should turn to the modern political system developed in the West. While the two previous thinkers tried to deconstruct the illegitimate practices of a person coming to power through usurpation but retains the caliphate, ‘Alī is arguing that it is inherently unislamic, and thus needs to be annulled.

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<sup>75</sup> ‘Abd al-Rāziq, *al-Islām wa Uṣūl al-Ḥukm*, 43.

<sup>76</sup> With the help of the British, he rebelled against the Ottomans. Finally, he got a share to become ruler of Syria. However, Syria was attacked by the French army. He fled to England, then was appointed king of Iraq. ‘Abd al-Rāziq, *al-Islām wa Uṣūl al-Ḥukm*, 46-47.

After ‘Alī published his book and after the failed effort of the caliphate congress in 1926, the idea of restoration of the Islamic caliphate wanes. Muslims have been slowly abandoning this concept and shifting to embracing the idea of the nation-state. This shows that his mind is quite effective in influencing the public. However, critiques against ‘Alī continue to exist. There have been many works published in his time and after his death which refuted his argument.<sup>77</sup> One of ‘Alī’s critics regarding the Islamic caliphate who also wrote about *taghallub* was Muḥammad Ḍiyā’ al-Dīn Rayyis, whose style of thought tends to be more apologetic. I shall elaborate on his thoughts in the next session.

#### The Apologist’s Approach

Before I proceed to the thought of Muḥammad Ḍiyā’ al-Dīn Rayyis, I will first clarify whom I mean by the apologist. In my repertoire, apologists refer to scholars seeking to defend a traditional Islamic concept from modern external critiques, especially orientalist and secularist. For them, the pre-modern Islamic concept deserves a better appraisal than what outsider scholars are trying to stigmatize. Their defense, however, does not mean that they are rejecting any novel and modern notions. In many cases, they demonstrate that they follow and accept newness to some extent.

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<sup>77</sup> The works written during ‘Alī’s lifetime are *Naqḍ al-Islām wa Uṣūl al-Ḥukm*, the work of Muḥammad al-Khidr Ḥusayn (Shaykh al-Azhār at that time); and *Ḥaqīqa al-Islām wa Uṣūl al-Ḥukm*, the work of Muḥammad Bukhayt al-Muṭī’ī (Mufti of Egypt). The works written after his death were *al-Nazariyyāt al-Siyāsiyya al-Islāmiyya*, Ḍiyā’ al-Dīn Rayyis which will be discussed in this chapter; and *Naqḍ al-Islām wa Uṣūl al-Ḥukm* by Muhammad ‘Imāra.

However, on the other hand, ‘Alī also influenced Egyptian thinkers. Among the writers who followed ‘Alī’s line of thought was Khālīd Muḥammad Khālīd who wrote *Min Hunā Nabda’* and Farag Fauda who wrote *al-Ḥaqīqa al-Ghā’iba*. The first retreats from his secular view. In 1981 he published *al-Dawla fī al-Islām* which challenged his previous ideas. In his book, he argues that state and religion are related. He advocates the concept of a link between democracy and Islam.

Also, some of their paradigmatic presumptions align with reformist tendencies. However, their defense of traditional concepts is more salient than their inclusivity toward new ideas. Their work is more preoccupied with justifying the tradition than explaining why novel ideas are acceptable.

*Muḥammad Ḍiyā' al-Dīn Rayyis: Defending Taghallub against Secularists and Orientalists*

Muḥammad Ḍiyā' al-Dīn Rayyis is an Egyptian historian and academic in Dār al-'Ulūm, Cairo University, who lived between 1912-1977 and pursued Ph.D. from London University. He wrote several books in the field of the history of Islamic politics. His name is not widely known among researchers despite being a prolific writer. His book, which entitled *al-Nazariyyāt al-Siyāsiyya al-Islāmiyya* (Theories of Islamic Politics), was published in 1952 or 28 years after the abolishment of the Ottoman caliphate.<sup>78</sup> This book contains a description of the history of *imāma* in Islam. He explicitly stated that his motive for writing this book was to refute 'Alī 'Abd al-Rāziq's thoughts.<sup>79</sup> This shows that after 27 years, 'Abd al-Rāziq's thesis still resonates, so the refutation is still considered relevant.

Another motive that one can see, although he does not mention it explicitly, is to refute the orientalist's thesis on political thought, including the issue of usurpation. The hallmark of Rayyis' work is that he is very literate in orientalist works. He quoted many figures such as D.B MacDonald, T.W. Arnold, R.A. Coulson, H.A.R. Gibb, and William

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<sup>78</sup> He also wrote *al-Islām wa al-Khilāfa fī 'Aṣr al-Ḥadīth* as a refutation to 'Alī. In this book, Rayyis argues that *al-Islām wa Uṣūl al-Ḥukm* was not written by 'Alī, but by someone else. Also, this book is unacademic and carries political interest, composed when colonial powers wanted to weaken the Ottomans during World War 1.

<sup>79</sup> Rayyis, *al-Nazariyyāt al-Siyāsāt al-Islāmiyya*, 7.

Muir. This familiarity with western scholars and his engagement with them is what makes Rayyis' discourse sound apologetic. It seems that what matters for him in his book is rebutting orientalist accusations. Orientalists, according to him, tend to see and describe Islamic political thought from actual history, instead of ideal political theory. I will come back to this issue later. This tendency is undoubtedly different from that of Riḍā and al-Sanhūrī's work, which are more self-critical.

Rayyis' views are relevant here as a phase in the modern period in which the idea of usurpation was being defended after becoming a subject of critiques two decades earlier by the reformist scholars. Before I explain his views on usurpation, I will first describe Rayyis' position on the caliphate and the two methods of establishing imamate.

Rayyis argues that establishing a state (*dawla*) is obligatory for Muslims. He rejects 'Alī's view which separates politics and Islam. He maintains that 'Alī's idea is unprecedented in Islamic history. It is deplorable to see that since the fall of the Ottomans, the *umma* has not been able to reestablish the caliphate. Therefore, Muslim rulers bear the sin and responsibility for the absence of this system.

Having censured the inability of Muslims to reestablish the caliphate, Rayyis also pronounces that people could act realistically by accepting the nation-state system. In fact, he continues that ulama have allowed multiple states for Muslims since the classical period. He maintains that although the system is no longer centralized under the umbrella of the caliphate, the main thing for Muslims is to embody three aspects, namely unity, consultation (*shūrā*), and mutual assistance in goodness.<sup>80</sup> It seems that Rayyis does not realize that his idea about establishing a state is also new. In reality, it is a total western historical concept that has nothing to do with the pre-modern system of

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<sup>80</sup> Rayyis, *al-Nazariyyāt al-Siyāsāt al-Islāmiyya*, 209-210.

caliphate.<sup>81</sup> The state has neither epistemological nor historical roots in the Islamic caliphate. Unwittingly, by equating the concept of *dawla* (modern nation state) with *imāra* (amirate) in the pre-modern caliphate, Rayyis falls into historical anachronism.

Rayyis explicitly discusses the method of establishing imamate in the section that introduces the history of the caliphate system. He mentions two traditional methods: election by *ahl al-ḥall wa al-‘aqd* and designation. Citing the views of classical scholars, he mentions three conditions for *ahl al-ḥall wa al-‘aqd*, namely: being just, knowledgeable, and wise. He also cites classical discussions on the number of members of the *ahl al-ḥall wa al-‘aqd*. His discussion of this topic is almost nothing new. He neglects relevant contemporary questions, such as who *ahl al-ḥall wa al-‘aqd* today and how to designate them. The only issue that might make his discourse slightly different from the classical discourse is that he uses the modern concept of a contract to see the relationship between people represented by *ahl al-ḥall wa al-‘aqd* and the caliph. He mentions that contract had been used for a long time in Islamic political history, preceding the views of the philosopher Jean-Jacques Rousseau who inspired the French revolution.<sup>82</sup> What he does not mention, however, is the difference in the nature of the political contract between classical Islamic practices and their modern counterpart.

In addition to the election by *ahl al-ḥall wa al-‘aqd*, Rayyis also accepts the concept of appointment by a previous leader. However, the discourse once again seems apologetic. He even essentializes *turāth*. He presents only a theoretical imamate but neglects how Muslim rulers abandoned the ideal practice. He quotes the opinion of pre-modern scholars that a designated person (*waliyy al-‘ahd*) must be trustworthy,

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<sup>81</sup> See, Jackson, *Islamic Law and State*; Hallaq, *The Impossible State*.

<sup>82</sup> Rayyis, *al-Nazariyyāt al-Siyāsāt al-Islāmiyya*, 213.

reliable, and the best among the *umma*.<sup>83</sup> He also said that according to classical scholars, the imamate should not be legalized by an inheritance system. In addition, candidates appointed by an existing ruler must obtain people's approval.<sup>84</sup> However, the opinion he quotes does not describe the Islamic tradition in a bigger picture. In reality, the ulama, especially in the post-classical period, were willing to accept the leadership of a corrupt ruler. Rayyis also does not allude to the fact that in Islamic history, most rulers were elected by way of inheritance, where a father passes power on to his son. In other words, Rayyis quotes and describes the ideal theory, rather than actual historical practices.

The topic of usurpation appears several times in Rayyis' writings. First, he discusses this topic when describing the decentralization of leadership and governors in classical government structure. He then mentions *imāra istīlā'* (local seizure) in which a dynasty separates from a central government and then governs itself independently. His discussion on this topic is merely quoting the views of al-Māwardī<sup>85</sup>, avoiding the question of how this topic could be relevant to modern times. He uses this discourse to show that Islamic law in the past was flexible and accommodative to political developments. His discourse on local seizure is different from that of other writers. Traditionally, scholars use the topic of local seizure to show the willingness of ulama to make concessions to separatism. For other writers, a local seizure is a manifestation of degradation of Islamic politics where in which caliphs lost their authority after many rebellions in provinces. Local seizures are considered practices that deviate from the general norm of caliphate theory.

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<sup>83</sup> Rayyis, *al-Nazariyyāt al-Siyāsāt al-Islāmiyya*, 237.

<sup>84</sup> Rayyis, *al-Nazariyyāt al-Siyāsāt al-Islāmiyya*, 238-239.

<sup>85</sup> Rayyis, *al-Nazariyyāt al-Siyāsāt al-Islāmiyya*, 282.

Second, Rayyis also discusses usurpation when he talks about the responsibilities of a leader (*mas'ūliyya al-imām*). In this regard, he differs from pre-modern writers who put the topic of usurpation after discussing the two methods of choosing an *imām*. Rayyis discusses usurpation in the context of criticizing Orientalists who describe Muslim rulers as absolute and despotic. There is no room for criticism of rulers in Islam for these Orientalists. Also, an authority of a ruler has never been limited by a constitution.<sup>86</sup> According to Rayyis, this is a baseless accusation. The Orientalists' serious flaw is that they read Islamic politics by only seeing empirical reality in history. Moreover, instead of seeing it as an exceptional phenomenon, they put this reality as a general ruling and something natural. In addition, Orientalists ignore Islamic leadership theory. They ignore the aspirations of Muslim scholars who advocate an ideal political system.<sup>87</sup> They, for example, ignore the concept of commanding right and forbidding wrong (*amr ma'rūf nahy munkar*) to leaders and the idea of leadership accountability in the Islamic tradition.

To answer orientalists who rely on books of history, Rayyis relies on books of political theory. He mentions the thought of 'Abd al-Qāhir al-Baghdādī, al-Māwardī, al-Juwaynī, al-Shahrastānī, al-Ghazālī, al-Rāzi, al-Ījī, and Ibn Ḥazm to show that in Islam, people have the right to demand accountability and straighten out a deviating leader. People even have a right to depose a leader if he is a corrupt person. This shows that the concept of people's sovereignty over the leader has existed for a long time in Islam. This concept has only been recognized and formulated in the Western world in the modern century.<sup>88</sup>

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<sup>86</sup> Rayyis, *al-Nazariyyāt al-Siyāsāt al-Islāmiyya*, 344-346.

<sup>87</sup> Rayyis, *al-Nazariyyāt al-Siyāsāt al-Islāmiyya*, 347.

<sup>88</sup> Rayyis, *al-Nazariyyāt al-Siyāsāt al-Islāmiyya*, 339.



Rayyis also admits that there is a tendency of submission among ulama to unjust leaders in the Islamic tradition. However, he highlights that they do so because of practical consideration, to prevent greater harm. They accept corrupt rulers based on the lesser of two evils.<sup>89</sup> What they had at their hand were two options. First, they can judge the leadership of a despotic ruler as illegitimate. If they do so, fatal consequences will occur: all transactions and contracts in the Islamic world will be invalid. This is because, in the absence of an *imām*, there will be no valid governor and judge. It is at their hands that the implementation of Islamic law rests.<sup>90</sup> Second, ulama can act realistically by legitimizing this leadership for the sake of implementing Islamic laws. This is what had happened. Even though they accept it, they also admit that this is an exigent situation and Muslim communities have to make an effort to end it by returning to a proper mechanism.

Rayyis continues that it is based on the concept of the lesser of two evils that scholars accepted usurpers. They consider usurpation as only temporary.<sup>91</sup> The critics of ulama tend to ignore that usurpation is only exigent in Islamic law, making an impression that it is a fundamental principle in Islamic political theory.<sup>92</sup> Among the critics here is ‘Alī ‘Abd al-Rāziq who saw the pervasiveness of usurpation in Islamic history and used it as an argument that the caliphate system was unreliable.

According to Rayyis, although they accept a usurper, ulama still consider several aspects. First, they always measure the size of harm that might occur. Suppose defending

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<sup>89</sup> Rayyis, *al-Nazariyyāt al-Siyāsāt al-Islāmiyya*, 347.

<sup>90</sup> This is al-Ghazālī’s view in *al-Iqtisād fī al-’I’tiqād*. This view relies on the premise that the validity of the leadership of governors and judges is an extension of the validity of the leadership of the caliph.

<sup>91</sup> Rayyis, *al-Nazariyyāt al-Siyāsāt al-Islāmiyya*, 348.

<sup>92</sup> Rayyis, *al-Nazariyyāt al-Siyāsāt al-Islāmiyya*, 353.

a usurper creates more significant harm than fighting it; for instance, by causing Islamic law to be inapplicable and splitting Muslim societies, they will not hesitate to wage war against this unjust usurper.<sup>93</sup> Second, ulama do not categorize resistance (*khurūj*) against usurper as *baghy* (rebellion). For them, rebellion is only resisting against a right or just *imām*, whereas a usurper does not fulfill such a criterion. Therefore, fighting a usurper is allowed in Islamic law. This is the reason why scholars never called Ḥusayn, who fights Yazīd, as a rebel but as a martyr.<sup>94</sup> Moreover, if resistance against a usurper is successful, scholars will not hesitate to provide legitimacy and validation. It should be noted that Rayyis is not fully accurate in describing the tradition here. *Madhhab* Ḥanbalī, in particular, as I have shown in the previous chapter in the discussion of Ibn Qudāma's thought and will come in the discussion of Ibn al-Ḍuwayyān, holds the view that resisting a usurper of any kind, just or unjust, is an act of rebellion.

Third, even though a usurper is in power, scholars believe there is still an obligation to command right and forbid wrong against him. The oppression of a usurper cannot be left without critiques. Reminding a ruler in any situation is always mandatory. Rayyis quotes the Prophet's hadith to support this pronouncement: "the best *jihād* is telling the truth before a corrupt ruler". He mentions several historical precedents in the past in which the scholars reminded the rulers, such as Abū Bakra reminded Mu'āwiya and Abū Yūsuf reminded Hārūn al-Rashīd.<sup>95</sup>

Fourth, even when scholars accept usurpation, obeying a usurper has limits. Obedience to sins is forbidden in any situation. Rayyis mentions several related Prophetic traditions which contradict Orientalists' claim that obedience to an *imām*,

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<sup>93</sup> Rayyis, *al-Nazariyyāt al-Siyāsāt al-Islāmiyya*, 354.

<sup>94</sup> Rayyis, *al-Nazariyyāt al-Siyāsāt al-Islāmiyya*, 354.

<sup>95</sup> Rayyis, *al-Nazariyyāt al-Siyāsāt al-Islāmiyya*, 355.

whether just or unjust, is absolute. Orientalists do not distinguish between historical reality and the ideal doctrine of Islam.<sup>96</sup>

From the description above, it is clear that Rayyis' interest is to defend the Islamic tradition from claims of orientalists. He is not concerned with reforming Islamic thought and building a healthy and accountable political system. He also tends to be an essentialist in reading history. In addition, unlike Riḍā and al-Sanhūrī, he does not criticize the practices of usurpation in the early era by Mu'āwiya. He acknowledges no actual election and free oath of allegiance process. What happened was mere coercion. Even though Rayyis deplores Mu'āwiya's policy of bequeathing his seat to his son and not choosing the best candidate, he ends up rationalizing it. He claims that Mu'āwiya did this to avoid bloodshed. Also, the implementation of *shūrā* to appoint leader had been difficult in the time of Mu'āwiya because Muslims already scattered in various regions.<sup>97</sup> It seems that salvaging the image of the past is far more critical for Rayyis than remedying the trajectory of history in the upcoming period.

In addition to a problem of the essentialist tendency when describing history and avoidance of critique to tradition, Rayyis is also not interested in mentioning some actual events of overthrowing the rulers in his time. This, in particular, contrasts with Riḍā who alludes to the overthrow of the Ottoman *sultāns*. Rayyis, for instance, does not discuss the incident of the coup against King Farūq by the free officers in 1952 in Egypt. He does

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<sup>96</sup> Rayyis, *al-Nazariyyāt al-Siyāsāt al-Islāmiyya*, 358. I agree with Rayyis' critiques of Orientalists. They tend to exaggerate the reality by claiming that Islamic history embodies what they call "Oriental despotism". Actual Islamic legal and political thought is radically different and more complex than they describe. Regarding the critiques to the idea of Oriental despotism, see Joseph Massad, *Islam in Liberalism* (Chicago; London: The University of Chicago Press, 2016), 17-20.

<sup>97</sup> Rayyis, *al-Nazariyyāt al-Siyāsāt al-Islāmiyya*, 186-190.

not talk about to what extent this event was legitimate. He also does not mention some of the events of the overthrow of the Ottoman *sultāns* that occurred in the modern history.

The scholar who tries to address the actual events of the overthrow of power in modern times is Ibn Ḍuwayyān from Saudi Arabia. In the next section, I attend to his ideas, which represent the conformist approach to usurpation.

### *The Conformist's Approach*

The term conformist in this section has a specific meaning and methodological connotation. I define this group as those answering actual problems by referring to doctrines of a classical *madhhab* (school of legal thought) with which they affiliate. Their commitment to the *madhhab* and *taqlīd* does not enable them to switch and look at the outside point of reference, be it other *madhhabs* or western political ideas. One salient feature of the conformists of the pre-classical period is that they state their discourses in literature called *sharḥ* (commentary) and *ḥawāshī* (abridgment). In this genre of literature, instead of pronouncing an independent opinion, they expound an existing norm or body of law in their *madhhab*.<sup>98</sup>

Among the traditionalist scholars who responded to usurpation is Ibrāhīm ibn Muḥammad or well known as Ibn Ḍuwayyān, a scholar from the Ḥanbalī *madhhab* who lived in Nejad (in modern days it is part of Saudi Arabia) between 1275-1355 AH or 1858-1945 CE. He wrote a book entitled *Manār al-Sabīl* (Lighthouse of the Way), which is a

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<sup>98</sup> The tradition of writing commentaries in Islamic intellectual history flourished from the 16th century to the 19th century. See Ahmed El Shamsy, *Rediscovering the Islamic Classics: How Editors and Print Culture Transformed an Intellectual Tradition* (Princeton, NJ: Princeton University Press, 2020). Spevack have argued that *ḥawāshī* are the medium through which a scholar espouses, and the same time expands the ideas of earlier scholar. In other words, writing *ḥawāshī* does not mean total replication of earlier discourse. See, Aaron Spevack, "Egypt and the Later Ash'arite School," in *The Oxford Handbook of Islamic Theology*, ed. Sabine Schmidtke (Oxford: Oxford University Press, 2016), 534–46.

commentary of *Dalīl al-Ṭālib li Nayl al-Maṭālib* (A Student's Guidance to Obtain Religious Knowledge) written by Mar'ī ibn Yūsuf al-Maqdisī al-Ḥanbalī (d. 1033/1623).<sup>99</sup>

It should be noted that although Ibn Ḍuwayyam's explication on usurpation in this book is very brief, it is relevant to be mentioned for the following reasons: first, it represents a certain tendency in viewing Islamic tradition, namely conformism. Although a minority in the early twentieth century, this tendency will rise again in the next century during the Arab Spring period, which I will explain in the next chapter. Therefore, the idea needs to be mentioned to show its position as a mediator between pre-modern views and those born in the Arab Spring period. Second, his writing has a socio-political context related to the issue of usurpation. Ibn Ḍuwayyān experienced and witnessed usurpation events in the modern century, namely the seizure of power from Ibn Rashīdī by 'Abd al-'Azīz in the Nejad region and from Sharīf Ḥusayn by 'Abd al-'Azīz in the Ḥijāz region. Therefore, his writing could be considered as containing a legal response to these political events.

Another thing worth mentioning is that, unlike the four previous figures who responded to the collapse of the Ottomans, Ibn Ḍuwayyān does not mention this case at all in his writings. The integrity of the Ottomans and its revival after the abolishment is not his concern. He lived in an era where the Arabian Peninsula was experiencing turmoil against the Ottomans. The rulers of the Ḥijāz and Nejad attempted to separate from the caliphate, which seemingly is not an issue for Ibn Ḍuwayyān.

The following subsection will explain his ideas and the socio-political context behind them.

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<sup>99</sup> Ibrāhīm ibn Rāshīd, "Introduction to *Tārīkh Ibn Ḍuwayyān*", 25-31; Muḥammad ibn 'Uthmān, *Rawḍā al-Nāẓirīn 'an Ma'āthir 'Ulamā' Najd wa Ḥawādith al-Sinīn*, (Riyāḍ, Maṭba'a al-Ḥalabīy, 1400/1980), I: 48-50; Abū Qutaiba al-Faryābī, "Introduction to *Manār al-Sabīl*", 17-25.

### *Ibn Ḍuwayyān and His Affirmation of the Medieval Position*

His full name is Ibrāhim ibn Muḥammad Ḍuwayyān. In some of his works, he shows sympathy to Wahhabism (the teaching of Muḥammad ‘Abd al-Wahhāb. He differs from the latter in one respect, namely that he refuses to excommunicate (*takfīr*) the Ottomans.<sup>100</sup> Also, Ibn Ḍuwayyān was not much involved and interested in the socio-political activities of his time. However, he is very aware of the dynamics and history of politics in the Arabian region. In his book *al-Tārīkh*, he mentions almost all the events of conquest and usurpation in the region known today as Saudi Arabia.<sup>101</sup>

Ibn Ḍuwayyān’s work, *Manār al-Sabīl*, which contains his views on usurpation, is quite popular, especially among followers of the Ḥanbalī school and contemporary Salafi activists.<sup>102</sup> This book was first published in 1321/1903, or 21 years before the dissolution of the Ottomans. In principle, this is a book that discusses legal issues from rituals, transactions, family law to political matters and jihad.

Ibn Ḍuwayyān puts the discussion of usurpation in the chapter of *baghy* (rebellion). In this regard, he follows the tradition of the Ḥanbalī school when discussing this issue. As I pointed out in the previous chapter, Ibn Qudāma, the medieval Ḥanbalī jurist, also wrote about this topic in the same manner in his book *al-Mughnī*. This tendency is different from that of other schools that place it on the discussion of imamate.

Ibn Ḍuwayyān states his ideas on usurpation by making certain premises. First, he said that the existence of a ruler in Islam is paramount. Such a figure has several

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<sup>100</sup> al-Faryābī, “introduction to *Manār al-Sabil*,” 21.

<sup>101</sup> Ibn Ḍuwayyān, *Tārīkh Ibn Ḍuwayyān*, 97.

<sup>102</sup> One of the factors that made it popular is that this book was commented on by Nāṣir al-Dīn al-Albānī, a famous contemporary *muḥaddith*, in his book *Irwā’ al-Ghalīl*.

responsibilities, including protecting Islamic territory, implementing criminal law, enforcing the justice system, and commanding right and forbidding wrong. Based on this premise, he declares that Muslims are forbidden to rebel against a ruler who has already acquired his power.

Second, a leader can be chosen by various methods, namely: consensus (such as the election of Abū Bakr), appointment (such as the election of ‘Umar), election by *ahl al-ḥall wa al-‘aqd* (such as the election of ‘Uthmān), or by usurpation. This last method can be seen in the way ‘Abd al-Mālīk ibn Marwān, the fourth Umayyad caliph, acquired his power by defeating ‘Abd Allāh ibn Zubayr.<sup>103</sup> This fact shows that Ibn Ḍuwayyān recognizes usurpation as the fourth method to acquire power.

He explains that his position on usurpation was based on two considerations: first, fighting usurper would result in bloodshed; second, this is the view of the eponym, namely Aḥmad. He firmly states that no matter what the situation is, it is forbidden to contest a usurper who uses violence to get his position, even though he is a corrupt person. Thus, it is clear that Ibn Ḍuwayyān is merely following his *madhhab*’s opinion.

Ibn Ḍuwayyān then continues that this ruling on usurpation applies to general leadership (caliphate) and limited leadership, namely of a particular territory. He wrote, “if a *sulṭān* [ruler of a limited area], performs *taghallub*, as the case in our time, then the law is the same as with the *imām*”.<sup>104</sup> Ibn Ḍuwayyān in this sentence indicates that a usurpation, performed against either a *sulṭān* or a caliph, should not be resisted.

Ibn Ḍuwayyān’s statement “as the case in our time” refers to specific usurpation events in his period. He does not explain what the incidents are. Presumably, they are the seizure of Nejad from the hand of ‘Abd al-Raḥmān (a descendant of Ibn Su‘ūd, the

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<sup>103</sup> Ibn Ḍuwayyān, *Manār al-Sabīl*, II: 399.

<sup>104</sup> Ibn Ḍuwayyān, *Manār al-Sabīl*, II: 399.

first founder of Saudi Arabia) by Ibn Rashīdī, and the seizure back from the hands of Ibn Rashīdī by ‘Abd al-‘Azīz ibn ‘Abd al-Raḥmān, who is known as the founder of the third dynasty of Ibn Su‘ūd.<sup>105</sup>

Another usurpation event that occurred in Arabian Peninsula during Ibn Duwayyān’s lifetime but occurred after he published *Manār al-Sabil* and *Tarīkh ibn Duwayyān* was the seizure of the Ḥijāz by ‘Abd al-‘Azīz ibn ‘Abd al-Raḥmān from Sharīf Ḥusayn. Sharīf Ḥusayn’s ancestors, i.e., descendants of Ḥasan ibn ‘Alī ibn Muḥammad PBUH, have long been rulers of this region. From generation to generation, they had governed Makkah and Madinah. Nevertheless, their position was eventually replaced by the family of Ibn Su‘ūd.<sup>106</sup>

This observation makes clear that Ibn Duwayyān accepts the pre-modern concept of usurpation without reservation. His discourse regarding this issue results from his commitment to tenets of his *madhhab*. Also, Ibn Duwayyān was not very concerned about the fate of the Ottoman that was on the brink of crumbling in the early twentieth

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<sup>105</sup> In 1891, Ibn Rashīd (the ruler of Jabāl Shammar) defeated ‘Abd al-Raḥmān and caused the latter to flee to Bahrain, then Kuwait. While Ibn Rashīd was supported by the Ottomans, ‘Abd al-Raḥmān was backed by the British. In the period between 1902-1904 ‘Abd al-‘Azīz, son of ‘Abd al-Raḥmān, returned to Nejad and succeeded in conquering Ibn Rashīd. In 1906 Ibn Rashīd then was killed by ‘Abd al-Azīz. In the same year, the Ottomans who supported Ibn Rashīd and had long ruled in Nejad also had to leave the area because the power of ‘Abd al-Azīz drove them out. James Wynbrandt, *A Brief History of Saudi Arabia* (New York, NY: Facts On File, 2010), 166-186.

<sup>106</sup> In 1917, three parties, namely: Ḥusayn (the ruler of Hijaz), ‘Abd al-Azīz (the ruler of Nejad), and the British, actually had an alliance against the Ottomans. However, the relationship between the two rulers then had to stop. They fought each other. In 1919-1920 there was a battle between the strongholds of Sharīf Ḥusayn and ‘Abd al-Azīz.<sup>106</sup> In 1924, Sharīf Ḥusayn had to exile to ‘Aqaba. In 1925, the Ḥijāz finally fell into the hands of ‘Abd al-Azīz. After overthrowing two of his competitors in the Arabian region, namely Ibn Rashīd and Sharīf Ḥusayn, the power of ‘Abd al-Azīz and descendant of Ibn Su‘ūd become unchallenged and lasted in the region until now. Wynbrandt, *A Brief History of Saudi Arabia*, 179.



century. Ibn Ḍuwayyān himself is more preoccupied with the regional turmoil, which are usurpations in the Arabian Peninsula.

After describing four modern scholars' views on *taghallub* and their specific context, the following section analyzes the similarities and differences between their discourses.

### *Engagement with Tradition and Liberal Inflection*

Unlike the pre-modern period, where the views of the ulama regarding usurpation experienced uniformity and reached orthodoxy, in the modern period, the discourse of ulama had been disrupted. In other words, in this period, the orientation of the scholars regarding the issue of usurpation was no longer solitary. The twentieth century saw the emergence of four trends, namely: reformist, secularist, apologist, and conformist.

Before I compare these four modern approaches, I will briefly mention several facts about how their discourses differ from and at the same time share with that of pre-modern ulama. In other words, I will demonstrate on what aspect the modern ulama draws upon and breaks from the pre-modern discourse.

- a. Out of four approaches discussed in this chapter, two still mention the importance of the classical notion of the Islamic caliphate. It is still an idealized concept, particularly among the reformists and the apologist, whereas it is no longer a concern for the secularist and the conformist. Despite this system has already crumbled, the first two groups still long for it and believe that the abolishment is reversible. Meanwhile, the other two propensities have different stance regarding the caliphate. The secularist calls for the abandonment of this system and turning to the western notion of the secular nation-state system as a

- new trajectory. The conformist is more occupied with the idea of regional leadership (*salṭana*), where a ruler can govern a particular region independently from the caliphate. Ibn Ḍuwayyān, a representative of this propensity, accepts the idea of overthrow of regional ruler and separatism from centralized caliphate. Through this discourse, it seems that Ibn Ḍuwayyan wants to legitimize the autonomous authority of the Ibn Sa‘ūd’s regime from the the Ottoman’s tutelage.
- b. The two classical methods of establishing an imamate, namely designation (*al-istikhlāf*) and election (*al-ikhtiyār*), are retained as well. They still reverberate, especially among the reformist, apologist, and conformist. These three tendencies still discuss these issues because they share the commitment to Islamic traditional political concept. The reformists’ stance is peculiar compared to others. Not only retaining, but they also aspire to refashion these two methods. The secularist is the only group that dismisses these two mechanisms as the preferred system for establishing rulership.
  - c. Above anything else and the most striking feature is that the concept of usurpation itself does not vanish from modern Islamic political thought. Again, only the secularist is willing to put aside this idea among the ulama discussed here. Even the reformists, who present the western notion of constitutionalism as an alternative to usurpation, still retain the idea of usurpation. It seems that their commitment to traditionalism prevents them from abandoning the traditional concept in its entirety.

In the following paragraphs, I will turn to the discussion of how these modern ulama share and differ in their negotiation between traditional discourses and western liberal assumption in their discourse of usurpation.

### *The Prevalence of Taghallub in Islamic History*

The four approaches discussed in this chapter share a few commonalities and have uniqueness simultaneously. The first commonality is their historical awareness regarding the prevalence of usurpation (*taghallub*) in Islamic history. There is no proclivity denying that usurpation is a common phenomenon that has occurred repeatedly throughout the history of Muslim politics.

Riḍā, al-Sanhūrī, Rayyis, and ‘Alī even admit that the normal transition of leadership occurred only during the *al-khulafā’ al-rāshidūn* period. Ibn Ḍuwayyān made a long list of usurpation events in the Arabian Peninsula. Not only realizing the ubiquity of usurpation, these four tendencies also see the practice of *taghallub* as a historical flaw and a stain in Islamic politics. To say it differently, no scholar sees usurpation as an ideal method in appointing leaders. Of the five figures discussed here, three of them, namely Riḍā, al-Sanhūrī, and Rayyis, see *taghallub* through the lens of legal maxim “the lesser of two evils”. This means that *taghallub* is a manifestation of wickedness in their view.

### *Invocation of Islamic Tradition*

The second commonality relates to the engagement with tradition. Despite their different orientations, these four proclivities are same in terms of how they mobilize Islamic tradition to support their stance. They were all knowledgeable and familiar with the intellectual history of Islam. Their work on the caliphate cites the legacy of pre-modern scholarship (*turāth*) and places it as a source of ethics and epistemology for responding to modern predicaments.<sup>107</sup> It is my contention that their engagement with

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<sup>107</sup> This optimistic view and trust in the tradition among Muslim ulama are in total contrast with the mainstream tendency among western thinkers. Several scholars have contended that post the Enlightenment era, the general attitude of western

tradition that distinguishes them as ulama from mere Muslim intelligentsias who also seek to address timely problems with referring to other points of reference.

Due to their reliance on tradition, therefore, all five ulama discussed here can be called traditionalists. In this regard, I agree with the scholars like Alasdair MacIntyre and Talal Asad, who broaden the concept of a tradition, encompassing various strategies of dealing with modern issues.<sup>108</sup> In principle, especially according to Asad, a discourse is considered traditional if it has *ittiṣāliyya* (continuity) and engagement with the foundational texts, which is the Quran, hadith, and the views of previous ulama. This continuity and engagement can be manifest in the form of *vocabularies, structures of ideas, and methods of thinking*. In Asad's repertoire, tradition refers to the memory of the past that modern Muslim intellectuals try to revive to answer their timely predicament. Tradition, therefore, is approached as a wide umbrella which can accommodate various repercussion.

As an implication of this inclusiveness, a concept originating from pre-modern period which survive as it is without modification or which experience minor or major mutations and adaptations when employed by ulama to face novel issues, all can be equally called traditional concepts. As Asad suggests: "In principle, tradition can accommodate rupture, recuperation, reorientation, and splitting—as well as continuity."<sup>109</sup>

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philosophers toward history and tradition is more pessimistic. The past or the pre-modern period is seen as a period of darkness and, therefore, holding on to tradition is atavism. See, for instance, 'Abd al-Raḥmān, *Rūh al-Ḥadātha*, 175; Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples* by Linda Tuhiwai Smith, 1st Edition (London and New York: Zed Books, 2013), 57.

<sup>108</sup> Read chapter 1 of this dissertation, especially in the "Theoretical Framework" section.

<sup>109</sup> Talal Asad, "Thinking about Tradition," 169.

As Ebrahim Moosa and SherAli Tareen also suggest, tradition is “a continuing moral argument that has undergone particular shifts and transformations in new political and institutional conditions.”<sup>110</sup> Therefore, whether the reformist who wants to engineer the course of Islamic history and reform the pre-modern conception, the apologist and the conformist who accept the traditional notion without criticism, or the secularist who employ western cosmology in politics, all deserve the term traditionalist. This label still applies to them because they employ what MacIntyre calls “tradition-constitutive enquiry”<sup>111</sup>. In this regard, the four labels used in this chapter stand as an adjective to their traditionalist identity: the reformist traditionalist, the secularist traditionalist, the apologetic traditionalist, and the conformist traditionalist.

### *Discursive Strategy*

The next subject is more specific, which is concerning modality or hermeneutics (*ālīya*) of dealing with intellectual legacy (*turāth*). To a certain extent, the ulama, except the conformist, share the method of dealing with tradition. The reformist, secularist, and apologist construct their ideas about usurpation and the caliphate in an eclectic manner, meaning that they are not tied to any particular school of thought. They quote the opinion of the scholars of *fiqh* and *kalām* from the pre-modern schools pragmatically. Riḍā, for example, employs a non-orthodox/non-Sunni perspective which evaluates Mu‘āwiya negatively. In fact, this uncompromised perspective toward Mu‘āwiya originates from Mu‘tazila and Shī‘a.<sup>112</sup> Another evidence that shows the fluidity of Riḍā’s

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<sup>110</sup> Ebrahim Moosa and Tareen SherAli, “Revival and Reform,” in *The Princeton Encyclopedia of Islamic Political Thought*, ed. Gerhard Bowering (Princeton, NJ: Princeton University Press, 2015), 463.

<sup>111</sup> MacIntyre, *Whose Tradition? Which Justice?*, 354.

<sup>112</sup> Regarding Mu‘tazila position on Mu‘āwiya, read, for instance, al-Jāhīz, “Risāla fi al-Nābita” in *Rasāil al-Jāhīz*, II: 10-1, and *al-Rasā’il al-Siyāsiyya*, I: 398-9. It is

reference is that he quotes al-Kamāl ibn al-Humām from the Hanafī-Maturidi and Ibn Ḥajar al-‘Asqalānī and al-Taftāzānī from the Shāfi‘ī-‘Ash‘ārī school of thought. Al-Sanhūrī also cites the same Islamic authorities cited by Riḍā. ‘Alī ‘Abd al-Rāziq even uses historical sources uncommon for his time, namely *al-Muqaddima*, a sociological theory book written by Ibn Khaldūn, and *al-‘Iqd al-Farīd*, a literary work by Ibn ‘Abdi Rabbih, a poet from Andalusia.<sup>113</sup> These works indicate that these modern ulama tend to approach the issue of usurpation eclectically instead of abiding by certain methodological tendencies.

However, it should also be noted that the increasing popularity of the eclectic approach in Islamic political thought in the modern period does not mean that a tendency to bind oneself to one school of thought vanishes. The strict *madhhab* approach to respond to the issue of usurpation still exists in some circles, especially the Ḥanbalī school of thought. As I pointed out earlier, Ibn Ḍuwayyān wrote about *taghallub* by referring only to the views of Aḥmad and his school. His book, *Manār al-Sabīl* is itself an abridgment to *al-Dalīl* by Shaikh al-Mar‘ī ibn Yūsuf, a scholar of the Ḥanbalī school. In this regard, this fact evaluates Ḥasan Kūnākātā’s thesis stating that the strict *madhhab*-approach has disappeared from the modern ulama’s approach to the Islamic political thought.<sup>114</sup> The phenomenon that Kūnākātā mentions has indeed become a general trend among modern scholars. In this study, the reformist, secularist, and

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unimaginable to see any contemporary salafī cleric today embracing the same paradigm as Riḍā does. This suggests that Riḍā’s approach to politics is entirely different from that of mainstream salafī, even though he claims as a part of this paradigm.

<sup>113</sup> The phenomenon of eclecticism (*talfīq*) in general is not entirely modern. According to Ahmad Fekry Ibrahim, in the pre-modern period, this trend already existed in the Mamlūk period. Due to the increasing international trade transaction, judges need to be more flexible in making a decree. They, therefore, determine a legal case by referring to the canon of *fiqh* across schools of legal thought. Ibrahim, *Pragmatism in Islamic Law*, 105-128.

<sup>114</sup> Kūnākātā, *al-Nazariyya al-Siyāsiyya*, 51.

apologist embrace the utilitarian approach to tradition. However, the tendency to be committed to one of the pre-modern schools still exists among the Ḥanbalī school of thought.

Another thing to remark is that despite the similarities, the differences between these four proclivities are also very significant. Two things become my focus: the critique to tradition on usurpation and the influence of modern liberal assumption in the ulama's discourse.

### *Critical Approach to Islamic Tradition*

The reformist, secularist, apologist, and conformist indeed adhere to tradition, but the point of difference among them is how they do so. The reformist group approaches the Islamic tradition both affirmatively and critically. They appreciate and defend some aspects of the tradition but criticize some others. The proper term to describe this method is what Riḍwān al-Sayyid calls “*istilhām*”: employing certain notions from *turāth* as long as it is compatible with the nature of contemporary problems.<sup>115</sup> This means that they neither accept everything from the pre-modern tradition nor reject all of it. In other words, the reformist is utilitarian.

Riḍā and al-Sanhūrī, the two advocates of the reformation of political thought, criticize two things, namely: the scholars who accept the practice of *taghallub* without any criticism and attempt to perpetuate it, and the practice of *taghallub* itself in Islamic history, including the one committed by Mu‘āwiya and continued by the rulers of the Umayyad and the Abbasid dynasty. Besides criticizing one aspect of tradition, however,

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<sup>115</sup> Riḍwān al-Sayyid, “al-Fikra al-Siyāsī al-Islāmī: Madārisu wa Ittijāhuh,” accessed March 21, 2020, <http://ridwanalsayyid.com/cms/assets/pdf/2994d293offc4f3a9aaa1e8d2e1d804a.pdf>.

they defend tradition in other forms, especially the classical concept of establishing imamate: election (*ikhtiyār*) and appointment (*istikhlāf*) by a previous ruler. In other words, what they do is that they criticize usurpation and then suggest that the mechanism for having a ruler should be regulated in an accountable manner.

The reformists designate the practice of *khulafā' al-rāshidūn* (the four rightly guided caliphs) as an ideal manifestation of power transition in Islamic history. Their period did not witness any *warātha* (inheritance of a position of a ruler), conflict over power, and use of violence to ascend to the office. These reformers elaborated on the experience of Abū Bakr and 'Umar, who applied the *shūrā* principle to determine rulers and appoint successors. This reliance on the early practice of politics suggests that the reformists criticize Islamic political thought and practice stemming from the post-classical and classical eras and then propose the earliest Islamic era as an alternative point of reference to remedy the course of history. Thus, for them, the Islamic political tradition serves as a subject and at the same time an inspiration for the reformation they promote. In other words, they realize that tradition contains a burden and a strength simultaneously. These reformists precisely embody what Qasim Zaman calls “internal critics”, a group of scholars who advocate the importance of reform and invite people “to rethink their tradition from within.”<sup>116</sup>

The reformist views on *taghallub* also confirm the thesis of a few other scholars, prominent among them are Talal Asad, Samira Hajj, and Ahmad El Shamsy, that the reformists' method is genuinely Islamic and based on tradition itself.<sup>117</sup> This is not surprising because to reform tradition, one must draw on and work within the existing

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<sup>116</sup> Qasim Zaman, *The Ulama in Contemporary Islam*, 2.

<sup>117</sup> Asad, “The Idea of an Anthropology of Islam,”; Hajj, *Reconfiguring Islamic Tradition*, El Shamsy, *Rediscovering Islamic Classics*, particularly chapter of “Conclusion”.



structure and infrastructure of tradition itself. As MacIntyre suggests: “There is no standing ground, no place for enquiry, no way to engage in the practices of advancing, evaluating, accepting, and rejecting reasoned argument apart from that which is provided by some particular tradition or other.”<sup>118</sup>

The reliance of the reformists on tradition contradicts the tendency of some post-colonial academics who see them as agents of the West or scholars who carry a Western sensibility.<sup>119</sup> In addition to undermining the agency of Muslim scholars in their reformation, this designation as western agents, in fact, also essentializes intellectual legacy of Islam (*turāth*) and narrows the meaning of tradition. According to this line of thought, any reformation of pre-modern concept is no longer tradition, because tradition has a fixed and stable form. This view also draws on the assumption that modernity has caused a mere epistemic rupture among Muslims.<sup>120</sup> It assumes that with the coming of modernity and its constitutive elements, such as colonialism, and nation-state system, tradition suffers from “a structural death”,<sup>121</sup> meaning everything stemming from pre-modern concept can no longer be used properly in the modern time. At the hands of

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<sup>118</sup> MacIntyre, *Which Justice, Whose Rationality?*, 355.

<sup>119</sup> Among the scholars who view the reformists, particularly Muḥammad ‘Abduh and al-Kawākibī, in a disapproving perspective is Joseph Massad. See, *Islam in Liberalism*, 86; Hallaq also tends to be critical of reformists, such as Rashīd Riḍā, for their utilitarian tendencies and eclectic methods of dealing with *turāth*. Hallaq, *Sharī‘ā*, 504-8.

<sup>120</sup> Scholars employ this theory to see discontinuities in Islamic thought. Following Michel Foucault in *Archeology of Knowledge* and *The Order of Things*, the propagators of this approach believe that the duty of historians is not to find regularities, but rather irregularities, or to find a shift of episteme. I argue that the epistemic rupture theory is not suitable to be applied to see the discourses of the scholars. This theory may be useful to examine the discourse of non-ulama intellectuals who commonly ignore the Islamic tradition framework. Thus, epistemic rupture is possible, but not in the clerical class in particular. I have also elaborated this issue in chapter 1 of this dissertation in literature review and research method.

<sup>121</sup> Hallaq, *Sharī‘ā*, 2009; *The Impossible State*, 2013.

scholars embracing this paradigm, tradition becomes an entity that has only a single manifestation.

### *Modernity as Source of Epistemology*

In addition to having a solid commitment to tradition and making it an inspiration, these ulama, except the conformist, put modernity as a source of epistemology. In other words, they also take certain points of the modern Western experience in politics. Tradition does not constitute a stumbling block for them to widen their epistemology.

Among these four approaches, the reformist shows the strongest ability to balance between sticking with tradition and opening the door of reformation by accepting new ideas. Riḍā has a particular term for reformers like himself who adhere to this epistemology, namely *ḥizb al-islāḥ al-islāmī al-mu‘tadil* (a moderate Islamic reformist group). He maintains that this group stands in the middle position between the two groups: the *muqallids* who swallow all the classical *fiqh* notions (whom he calls the static jurists/*ḥizb ḥashawiyya*<sup>122</sup> *al-fuqahā‘ al-jāmidīn*) on the hand, and the admirers of the Western political system (whom he calls the westernized group/*ḥizb al-mutafarnijīn*) on the other. According to Riḍā, moderate Muslim reformers do not take both Western traditions and political experiences uncritically but combine the essence of both.<sup>123</sup> He suggests that this group's best representative or inspiration is his teacher,

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<sup>122</sup> Ḥashawiyya was initially a pejorative term used by classical scholars, especially Mu‘tazila, to ridicule the literalist group of *ahl al-ḥadīth*. Read, A. S. Halkin, “The Ḥashawiyya,” *Journal of the American Oriental Society* 54, no. 1 (1934); Jon Hoover, “Ḥashawiyya,” in *Encyclopaedia of Islam 3rd Ed* (Brill, 2016).

<sup>123</sup> Riḍā, *al-Khilāfa*, 62.

Muḥammad ‘Abduh. Riḍā himself also does not hesitate to call this group as *ḥizb al-ustādh al-imām* (the group of Muḥammad ‘Abduh).

Riḍā incorporates some modern elements in his reading of Islamic tradition. For example, he wrote about the *sulṭa al-umma* (authority of community), which is called popular sovereignty in Western political language. For Riḍā, people are actual source of power. In Islamic politics, the *umma* is represented by *ahl al-ḥall wa al-‘aqd*. The community could determine a ruler and remove him from his office if he deviates.<sup>124</sup> In modern times, the manifestation of *ahl al-ḥall wa al-‘aqd* is parliament. According to Riḍā, this position should be filled by an intellectual group like Imām Muḥammad ‘Abduh who has a solid political and spiritual vision.<sup>125</sup>

Another view of Riḍā that incorporates elements of modern political thought is his idea of the importance of constitutionalism. He maintains that this concept is necessary to prevent the practice of *taghallub* from happening again. A country's constitution must regulate the length of a ruler's reign and how people legitimately depose him if he turns despotic. Riḍā even says that Muslims need to learn from the West who could get rid of their dictators because of having a constitution.

The integration between tradition and modernity is more feasible in al-Sanhūrī's thought. This can be seen from the term he uses to refer to his proposal of thought, namely “a true caliphate according to the demands of the times (*khilāfa saḥīḥa ‘alā sūra ‘asriyya*)”.<sup>126</sup> According to al-Sanhūrī, this system combines classical caliphate theory and modern western political thought. If one compares to the caliphate system in pre-modern legal books, his concept of the modern caliphate is more dynamic and flexible. It

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<sup>124</sup> Riḍā, *al-Khilāfa*, 18-19, 58.

<sup>125</sup> Riḍā, *al-Khilāfa*, 59, 61.

<sup>126</sup> This is a term coined by Dr. Tawfīq Shāwī, editor and translator of al-Sanhūrī's dissertation. See, introduction to *Fiqh al-Khilāfa*, 34.

stands on the virtuous principles such as people's sovereignty (*siyāda sya 'biyya*), free election (*bay 'ā ḥurra*), consultation (*shūrā*), and supervision (*raqāba*).<sup>127</sup> Just like Riḍā, al-Sanhūrī also gives higher authority to people. For example, he gives an agency to people to announce the removal of a usurper when he lost his coercive power to support him. In Islamic intellectual history, the authority of *umma* in announcing the dismissal of this usurper is a novel view. Pre-modern ulama do not give them any role to determine whether a ruler is legitimate or not.<sup>128</sup> This once again shows how reformers can integrate tradition and modernity at the same time.

The reformists' approach to tradition and modernity is significantly different from the apologist and conformist scholars. While the first group is inclining towards revising history, the second and the third are not interested in doing so. In other words, they tend to be legitimist. They are not interested in criticizing or even questioning a pre-modern view of usurpation. They are also not interested in reforming the traditional method of establishing imamate. Using the framework of Qasim Zaman, the proper term for apologists and conformists is "the defenders of tradition". For apologists and conformists, *turāth* is both means and ends at the same time. What matters for conformists is compliance with classical traditions, not changing the political history of Muslims. This is also in stark contrast with the orientation of apologists whose concern is defending the usurpation concept to fend off orientalist's thesis. As Qasim Zaman identifies, the *taqlīd* (conforming classical authority without asking a question) method

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<sup>127</sup> Dr. Tawfiq Shāwī, introduction to *Fiqh al-Khilāfa*, 43-44.

<sup>128</sup> It should be noted that after Riḍā and al-Sanhūrī, views that give authority to an *umma* in politics will become a hallmark among modern Muslim thinkers. Regarding the flourish of the concept of the *umma* and popular sovereignty in Islamic political thought, See, March, *The Caliphate of Man*, 150-200.

is deeply embedded in the epistemology of the defenders of tradition.<sup>129</sup> In this method, to quote Ebrahim Moosa, “the law ruling was activated in a mechanical manner.”<sup>130</sup>

Despite some similarities in dealing with tradition, there are significant differences between the apologists and conformists, especially regarding modernity. In general, the apologists are more open to Western political concepts, even though they are not willing to criticize the classical idea of *taqhallub*. Rayyis, in this regard, discusses the topic of majority vote and democracy in his book. He also talks about the contract theory and the authority of *umma* in politics. Rayyis is quite literate about Western political theory, given that he is an alumnus of the University of London. The conformists, represented by Ibn Ḍuwayyān, overlook the modern conception of authority entirely. His discussion of usurpation only refers to the discourse of his *madhhab*. He also does not give an *umma* the space or authority in politics like Rayyis.

Among these four tendencies, the most peculiar one in responding to the tradition of Islamic thought on usurpation is ‘Alī ‘Abd al-Rāziq. In contrast to the other three trends, his attitude about the discourse of usurpation is neither support nor rejection. He discusses this topic for a completely different agenda. He uses the ubiquity of usurpation in Islamic history to subvert the Islamic tradition of the Islamic caliphate. Usurpation is proof that the caliphate system in *turāth* is unreliable, and that politics is profane (apart from religion).

Based on his narration on usurpation above, it can be said that ‘Alī’s approach to the caliphate system is deconstructionist. He cites a small portion of *turāth*, namely the issue of usurpation, to deconstruct a larger *turāth*, namely the caliphate system, and

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<sup>129</sup> Zaman, *The Ulama in Contemporary Islam*, 30.

<sup>130</sup> Ebrahim Moosa, “Recovering the Ethical: Practices, Politics, Tradition,” in *The Shari’a: History, Ethics and Law*, ed. Aryn Sajoo (London and New York: I.B. Tauris and The Institute of Ismaili Studies, 2018), 52.

replace it with a modern Western political system. This can be likened to a person who appoints one broken room in a big house as an excuse to destroy the house itself and replace it with a new house designed by a new foreign architect. Scholars who follow this tendency fall into the category which Riḍā calls *ḥizb al-mutafarnijīn* (the party of the westernized intelligentsia). They tend to put Western experience as a benchmark for truth.

There is a paradox in the approach of secularists like ‘Alī. On the one hand, the vocabulary and references he uses in his discourse are still traditional. However, on the other hand, the content of his thoughts is entirely different. He advocated secularism that does not have an epistemological root in Islamic politics. ‘Alī uses modern western cosmology, a strict separation between secular and religious. In Western cosmology, secular or political domain is a space where religious epistemology does not apply. In contrast, the religious domain is a space where secular epistemology does not apply. A proper term that may best characterize this paradox is the deconstructionist-traditionalist besides the secularist traditionalist itself.

After explaining the similarities and differences between the four approaches above in terms of how they engage with tradition and absorb modern political concepts, the conclusion summarizes my narrative in this chapter.

### *Conclusion*

In this chapter, I have explained the approaches and substantive opinions of the modern ulama regarding usurpation. In this section, I shall answer one final question regarding the differences among the scholars regarding *taghallub*. In the previous chapter, following Foucault’s idea on rules of formation, I asked and analyzed why orthodoxy and uniformity of views occurred in the pre-modern period. The question in

this chapter is: why did diversification and heterodoxy of views occur in the modern period?

To answer this question, I will come back to Talal Asad's idea about the character of Islam as a discursive tradition. He wrote that Islam is "simply a tradition of Muslim discourse that addresses itself to conceptions of the Islamic past and future, with reference to a particular Islamic practice in the present".<sup>131</sup>

The statement above implies that the discourse of scholars, including about the issue at hand, always engages with three dimensions of time: namely, past, present, and future. With this framework, I argue that the split of modern scholars' views on usurpation occurs because their discourse is determined by how they respond to these three dimensions of time. "Addressing the past" means the question of how ulama value their tradition. This includes the issue of how they respond to historical usurpation events. Among the scholars discussed here, some are willing to criticize tradition, even related to the early generation, such as the companion Mu'āwiya. Some scholars are silent regarding this problematic past.

"Addressing the present" means the question of how ulama address the actual political realities they face and how they respond to *taghallub* events that occurred in their time. This also includes the question of openness to modernity or willingness to accommodate modern political thought in their discourse. Among the scholars discussed here, some open the door for reformation and accept novel concepts, but others are more conservative. Still, some go beyond by accommodating Western political doctrines which do not have an epistemological basis from pre-modern Islamic political thought.

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<sup>131</sup> Asad, "The Idea of an Anthropology of Islam," 14.

“Addressing the future” is the question of the extent to which the ulama are committed to building a healthy political system in the future. Among the scholars here, some incline towards changing the course of history, so that usurpation can no longer become a routine practice. Some tend to be permissive and only conforming the discourse of the ulama in the past.

To conclude, one final remark about the critical approach to pre-modern position on usurpation needs to be made. Some ulama of the modern century, particularly the reformists, realize the presence of an epistemological crisis and inadequacy of pre-modern ideas. Using the Western constitutional concept, they then tried to propose what MacIntyre calls “imaginative conceptual innovation” using the Western constitutional concept.<sup>132</sup> Nevertheless, accepting this idea does not lead them to abandon the entirety of the discourse of usurpation. Eventually, the acceptance of usurpation as exigent reality by the four tendencies discussed in this chapter causes this concept to experience viability until the next century. When the political upheaval occurred during the Arab Spring period, this notion was recalled and invoked again by various tendencies to justify the existing reality.

In the next chapter, I will examine the views of contemporary scholars during the time of the Arab Spring and how they resurrect this traditional notion of usurpation.

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<sup>132</sup> MacIntyre, *Whose Justice? Which Rationality?*, 362.



## CHAPTER FIVE

### THE ULAMA'S DISCOURSES ON LEGITIMACY OF THE COUP 2013 IN EGYPT

“These ideas of legitimation and their internal justification are of considerable importance for the structure of rule.” (Max Weber)<sup>1</sup>

#### *Introduction*

The previous chapter has explained the following points: how ulama in the early 20<sup>th</sup> century negotiated between change and continuity in their discourse on *taghallub*, and how the issue of *taghallub* became the subject of debate about to what extent the reformation of Islamic political thought is necessary. This chapter will discuss the discourse of the ulama on the manifestation of contemporary *taghallub*, namely the removal of Muḥammad Mursī, the first democratically elected President of Egypt, by the Supreme Council of Armed Forces (SCAF) in 2013. This political event in Egypt is a representative window to describe the dynamics of Islamic political thought regarding the *taghallub* issue.<sup>2</sup> To say it differently, the ulama's view on this coup reflects their position on the pre-modern concept of *taghallub*.

The question I discuss in this chapter is: how do Islamic discursive tradition and modern political concept shape the ulama's discourse on the military coup in Egypt in

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<sup>1</sup> Max Weber, *The Vocation Lectures*, ed. David S Owen and Tracy B Strong, trans. Rodney Livingstone (Indianapolis/Cambridge: Hackett Publishing Company, 2004), 34.

<sup>2</sup> In modern Arabic, the term more often used to denote a coup is *inqilāb*. However, in various moments during the Arab Spring, the term *taghallub* has been used and debated as well, especially among the ulama. Read chapter 1 under the section "Clarification of the Concept" regarding the definition of usurpation and various terms associated with it.

2013? This question consists of several sub-questions: how do the contemporary ulama understand the Islamic intellectual tradition on *taghallub*? How does the western notion of democracy, particularly legitimacy, influence their discourse?

While in chapter 3 I explain the issue of usurpation with a chronological approach, but in chapter 4, I classify ulama's discourse based on their methodological approach to *turāth* (pre-modern intellectual legacy), in this section, I draw on and elaborate further Max Weber's typology of the legitimacy of leadership. I choose his theory because it resonates with my overarching theoretical framework from Talal Asad, perceiving Islam as a discursive tradition. Both approaches necessitate an investigation into the reasoning of an actor instead of merely looking at socio-political circumstances. While Asad's theory provides a general framework to probe how a scholar constructs their discourse based on Islam's intellectual legacy, Weber provides a classification of reasonings to which such a scholar can be categorized. The latter explains three modes of reasoning on how a person's domination is justified: legal-based reasoning, traditional-based reasoning, and charisma-based reasoning. I shall explain the meaning of each reasoning in due course. Here, I will explain how I rely on and extend Weber's typology.

First, Max Weber does not apply the "Types of Legitimate Domination" theory to interpret certain socio-religious phenomena or discourses of clergies. My research shows that this framework is quite helpful for reading the discourses of ulama on *taghallub*. However, the weakness of Weber's theory is that for Weber, these three types of reasoning stand separately. In other words, these three modes of reasoning negate each other. For example, Weber contends: "...charismatic authority is sharply opposed to rational and particularly bureaucratic, authority, and to traditional authority, whether in

its patriarchal, patrimonial, or estate variants...”<sup>3</sup> This statement shows that charisma-based legitimacy will permanently abolish traditional and legal-based leadership.<sup>4</sup> On another occasion, he also writes: “In the pure type of traditional authority it is impossible for law or administrative rule to be deliberately created by legislation.” This statement demonstrates the incompatibility of tradition and rules (laws) in the perspective of Weber.

In my research, these three reasons are not exclusive. Domination built on the claim of charisma can also use the arguments of tradition to strengthen it. Likewise, dominance built on tradition can also be justified by legal reasoning. All three can be and have been used in combination.

In this study, I first show that tradition is the backbone of all discourses of the ulama about the military coup against the Egyptian President. In other words, all arguments, whether to reject or accept the coup, are always based on tradition. Next, I point out how the ulama employ other type of reasoning to strengthen traditional arguments. Second, in addition to using Weber's tripartite justification of authority as a basis, I also add another mode of reasoning that Weber fails to recognize, namely realism. I will elaborate on this concept in due course as well. In his writings, Weber mentions an aspect of opportunism, namely material interests that make a person or a group support a certain person's dominance as a leader. <sup>5</sup> In my repertoire, opportunism

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<sup>3</sup> Max Weber, *Economy and Society: An Outline of Interpretive Sociology*, ed. Guenther Guenther and Clauss Wittich (Berkeley, Los Angeles, London: University of California Press, 1978), 244.

<sup>4</sup> On another occasion, Weber also wrote: “Within the sphere of its claims, charismatic authority repudiates the past, and is in this sense a specifically revolutionary force.” Weber, *Economy and Society*, 244.

<sup>5</sup> Weber mentioned two factors that led to the transformation of leadership from being based on charisma to being based on legal-rational authority, namely: “the *ideal* and also *the material interests* of the followers in the continuation and the continual reactivation of the community. Weber, *Economy and Society*, 246 (italics are mine).

is not the same as realism. Opportunism always refers to material gain, whereas it is not the case in realism.

Based on the two considerations above, the views of the contemporary ulama on the military coup in Egypt in this paper are organized into five parts, namely: *first*, the justification of the coup based on tradition-charisma reasoning represented by ‘Alī Jum‘a, the former mufti of Egypt; *second*, the justification of the coup based on tradition-realism reasoning represented by Yāsir Burhamī, a prominent *salafī* cleric and a politician; *third*, the justification of the coup based on pure tradition reasoning represented by Muḥammad Sa‘īd Ruslān, a *salafī* preacher; *fourth*, the denial of the coup based on tradition-legal reasoning represented by Yūsuf al-Qaraḏāwī and Khaled Abou El Fadl. Finally, after explaining these four types of reasoning, I compare how these five figures negotiate between tradition and modernity in their discourse: how they approach the pre-modern established norm and how modern political concepts of legitimacy shape their discourse.

My central thesis in this chapter is that the plurality of the ulama’s stances on usurpation in the contemporary period is a continuation of the same phenomenon in the early twentieth century. The ulama still grapple with the conundrum of the modality of understanding *turāth* on usurpation of power. Equally preoccupying them is the issue of critical understanding or reforming *turāth*. Unlike the previous period, however, all ulama discussed here, wittingly or unwittingly, predicate their discourse of usurpation on a modern western conception of legitimacy. While the supporters of the coup are influenced by the tendency of violent legitimacy in western political thought, the deniers of the coup are establishing their discourse on constitutional and procedural legitimacy.

What makes the nature of the ulama’s discourse of this period distinct from the previous one is the tendency for disputation and exclusion. To say it differently, during

the Arab Spring, the ulama's view on the usurpation of power (*taghallub*) becomes the site field in which a claim of normativity and act of exclusion from orthodoxy takes place among them.

Before explaining the content of contemporary ulama's ideas about the military coup and analyzing how they negotiate between tradition and modernity, I first lay out the socio-political context of the Arab Spring in Egypt, which constitutes the background of their discourses.

### *The Setting of the Military Coup*

The coup against President Muḥammad Mursī occurred after a series of tense events since the fall of President Mubārak on February 11, 2011, the most important of which were the protests from a movement calling itself *Tamarrud*. These protests took place in various provinces in Egypt simultaneously on June 30, 2013, demanding Mursī's resignation.<sup>6</sup> His critics considered him as an authoritarian president. The *Tamarrud*'s protests prompted the Supreme Council of Armed Forces led by Marshal 'Abd al-Fattāḥ al-Sīsī to issue an ultimatum. Finally, on July 3, 2013, only a year after Mursī's victory in the presidential election, marshal al-Sīsī announced the removal of Egypt's first and only civilian President. Three figures representing religious orientations in Egypt: Shaikh al-Azhar, a functionary of the al-Nūr Party, and Pope Tawadrus II, stood by al-Sīsī when he made an announcement.<sup>7</sup>

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<sup>6</sup> The number of protestors against Mursī has been debated among various parties, between 14-30 Million. See Neil Ketchley, *Egypt in a Time of Revolution: Contentious Politics and the Arab Spring* (Cambridge: Cambridge University Press, 2017), 104.

<sup>7</sup> BBC News 'Arabī, "Bayān al-Jaish al-Miṣrī bi 'Azl al-Ra'īs Muḥammad Mursī," [www.youtube.com](https://www.youtube.com/watch?v=dd8H-PbBcLw) (BBC News 'Arabī, July 3, 2013), <https://www.youtube.com/watch?v=dd8H-PbBcLw>.

This military coup was not the end of the political tragedy in Egypt. After this incident occurred, a series of other far worse events took place. On August 14, 2013, a month after the announcement of the coup, mass massacres took place against the supporters of Mursī in Egypt, who persistently asked for the restoration of his presidency. Thousands of people died in this incident. In January 2014, the parliament crafted a new constitution with an authoritarian character. It contains articles on counterterrorism that give the military total power to arrest and kill anyone deemed dangerous. The next event was the presidential election on May 27, 2014, that gives the victory to ‘Abd al-Fattāḥ al-Sīsī. This triumph then marks the return of a much more totalitarian military regime to politics.<sup>8</sup>

The fall of Mursī to the office seemed to happen abruptly. The question is: why is the case? I argue, two factors led the coup of Mursī to materialize, which are material and efficient factors. Material factors are immediate events that occurred within a short period of time after Mursī's ascension to the office. They can be summarized into two causes. The first material cause is the inability of Mursī and the Freedom and Justice Party (FJP), from which Mursī won the election, to make alliances with numerous existing groups in Egypt. Mursī was accused of doing *akhwanatu al-dawla*

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<sup>8</sup> With the rise of junta military into power in Egypt, authoritarianism has intensified tremendously. ‘Abd al-Fattāḥ al-Sīsī plays a zero-sum game, which the previous presidents have never played. He cracked down the Muslim Brotherhood and allowed no opposition movement to exist. He labels any critical opponent as either enemy, terrorist, or violent actors. In the last election in March 2018, he detained almost all the candidates that he perceived could challenge his popularity. Among the whole candidate, al-Sīsī retained only the weakest one as his competitor. See, “Egypt: Arrests Escalate ahead of Unfair Elections,” Human Rights Watch, February 26, 2018, <https://www.hrw.org/news/2018/02/26/egypt-arrests-escalate-ahead-unfair-elections#>; Declan Walsh, “And Then There Was One: Last Challenger to Egypt’s Sisi Drops Out,” *The New York Times*, January 24, 2018; <https://www.nytimes.com/2018/01/24/world/middleeast/egypt-sisi-election.html>; “Egypt Arrests Ex-General Who Stood for Election against Sisi,” *the Guardian*, January 23, 2018, <https://www.theguardian.com/world/2018/jan/23/former-egyptian-general-arrested-by-military-after-announcing-presidential-bid-sami-anan>.

(brotherhoodization of the state). In this regard, the FJP and Mursī did not realize that many parties had a phobia of the Muslim Brotherhood long before his victory.<sup>9</sup> This is evident when Mursī came to the office; a third of parliamentarians resigned after knowing that the Muslim Brotherhood dominated the constitution-making process. Mursī also could not win the hearts of the clergies of al-Azhar University. This traditional group, later on, will show an implicit agreement in every step that the military took in eliminating the Muslim Brotherhood. The second material cause is that Mursī took several inconsiderate political steps, such as issuing a decree stating that presidential decisions are immune from any judicial review. This decree is deemed authoritarian by its critics.<sup>10</sup>

A more decisive factor that made the military coup possible is what I call “the efficient cause”, namely the entrenched hegemony of Egypt’s military since the initial phase of the country’s modern history. Khaled Abou El Fadl uses the term “Praetorian State” to refer to the fact that the army controls security, politics, including economic affairs of the country.<sup>11</sup> This hegemony creates a common perception that the military is the only institution that can determine the country’s future. There is a common myth among the military officers, which is also widely shared by commoners that the country will fall into chaos without the leadership of the Armed Forces. However, ironically, as

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<sup>9</sup> For instance, Mursī does not accommodate liberal groups like Ḥamdan Sabāḥī, Ayman Nour, and Muhammad Elbaradei, including youth activists of April 6. Ketchley, *Egypt in a Time of Revolution*, 100.

<sup>10</sup> Mursī was charged with many accusations for his a-year presidency. He is accused of being a USA agent, conspiring with Israel, being too close to Turkey and Iran, intending to sell the Suez Canal to Qatar, a Saudi agent, and others. Read Khaled Abou El Fadl, “Did the Military Really Save Egypt?,” ABC Religion & Ethics, July 5, 2013, <https://www.abc.net.au/religion/did-the-military-really-save-egypt/10099764>.

<sup>11</sup> Khaled Abou El Fadl, “The Praetorian State in the Arab Spring,” *University of Pennsylvania Journal of International Law* 34, no. 2 (2013): 305–14, <https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1041&context=jil>.

Abou El Fadl suggests: “[The military’s] primary role is not to fight wars, and not even to expect to fight wars, but to run the country.”<sup>12</sup> It is worth noting that this monopoly of the army over the country’s affairs reminds us of the concept of *al-ḥijr*, a term coined by al-Māwardī, to refer to the act of control over a caliph by military power, and the confederation of the military generals (*amīrs*) who control *al-sultān al-mālik* and caliph as a figurehead in the time of the Mamlūk which I have previously discussed in chapter 3. In other words, the strong military hegemony over the institution of president has precedent in the pre-modern Egypt’s history.

Since the Free Officers ousted King Faruq in 1952, Egypt had been ruled for six decades by three military figures: Nasser, Sadat, and Mubārak. The only memory that modern people of Egypt have, therefore, is living ‘peacefully’ under the strong figure from the military rank. To live under a civilian leader is something far away from people’s imagination. It would not probably be an exaggeration to say that whoever runs the country after the 2011 revolution, whether the Muslim Brotherhood or others, as long as they are civilians, the situation will remain the same: the coup would still be happening.<sup>13</sup> In other words, I am suggesting that the military coup is not a spontaneous event occurring when Mursī does not comply with the *Tamarrud*’s demands. Instead, it

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<sup>12</sup> Abou El Fadl, “The Praetorian State,” 307.

<sup>13</sup> Those who look back to the events after Mubārak’s step down cannot deny the reality of the army’s hegemony. The Supreme Council of Armed Forces (SCAF) immediately made a tactic to secure its position as ‘the true guardian’ of the country. For instance, on June 19, 2012, the SCAF announced the revisions to the first Constitutional Declaration. They proclaimed that the Armed Forces would be insulated from civilian oversight and enjoy autonomy to declare war. This step was taken to ensure that the monopoly of power still lies at the army’s hand. Finally, all of the previous efforts peaked at plotting the oust of Mursī immediately after his victory in the presidential election.



had been prepared since Mursī and his party acquired the power.<sup>14</sup> To say this is to state what becomes obvious reality.

Having laid the context of the discourses out, in the next section, I explain the stance of the Egyptian clerics and their reasoning regarding the 2013 military overthrow of President Mursī.

### *The Discourse of the Ulama*

#### The Justification of the Coup Based on Tradition-Charisma Reasoning

In his classification of the three types of leadership, Max Weber places traditional authority as the first category. He mentions that authority and leadership are called traditional “...if legitimacy is claimed for it and believed in by virtue of the sanctity of age-old rules and powers.”<sup>15</sup> By that Weber means that beliefs or doctrines in the past can give legitimacy to a person in power. Therefore, according to this line of thought, regardless of how a person acquires his power, people’s obedience to him comes from a value from “the eternal past” that has passed from generation to generation.<sup>16</sup> For people who believe in this tradition, what makes a leader legitimate is not a formal rule or constitution, but a belief in an authority considered sacred and binding.

Weber’s concept of authority based on tradition could be interpreted in numerous ways, of which, I suggest, is the intellectual legacy from the past. Interpreted

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<sup>14</sup> Other researchers have also suggested this contention. Read, "Khaled Abou El Fadl, “Failure of a Revolution: The Military, Secular Intelligentsia and Religion in Egypt’s Pseudo-Secular State,” in *Routledge Handbook of the Arab Spring*, ed. Larbi Sadiki (London and New York: Routledge, 2015), 261, 265-6; Ketchley, *Egypt in a Time of Revolution*, 112-113.

<sup>15</sup> Weber, *Economy and Society*, 226.

<sup>16</sup> Weber, *The Vocation Lecture*, 34.

in this manner, it resonates with the issue of legitimacy of *taghallub* at hand. The Islamic intellectual tradition of the past is the fundamental argument used by supporters of the military coup against President Mursī. Those supporters invoke the opinion of pre-modern ulama to claim orthodoxy and prove that the military action that took power from the elected President is legitimate. However, this tradition-based argument does not stand alone. Charisma-based arguments also reinforce it. According to Weber, this kind of argument is based on the judgment that a person has “exceptional sanctity, heroism or exemplary character.”<sup>17</sup> He is a man of heroic achievement and feats. Sometimes he is also believed by his followers to have supernatural powers. In my account, charisma can go beyond a person. It can be manifested in an institution, such as armed forces.

Weber’s theory about charisma fits with the argument of ‘Alī Jum‘a, who supported and authorized the coup by the army and the massacre against the peaceful protestors. For ‘Alī Jum‘a, the legitimacy of an act of overthrow of Mursī originates from both Islamic intellectual tradition and the charisma of the army.<sup>18</sup> He claimed that the military of Egypt had a very right to oust Muḥammad Mursī and use violence to ruin his followers. The army’s exceptional greatness is sanctified by many hadiths. ‘Alī Jum‘a’s detailed argument is presented below.

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<sup>17</sup> Weber, *Economy and Society*, 215.

<sup>18</sup> The support for the military coup came from various circles. Shaykh Azhar himself, for example, gave a speech at the announcement of Mursī’s decline and used the lesser of two evils method. However, the most active cleric in legitimizing the coup and making theological discourse in public was ‘Alī Jum‘a.

*‘Alī Jum‘a and His Unconditional Support to the Army*

‘Alī Jum‘a, born in 1952 in Bani Suwayf Egypt, has been an influential clergy in Egypt.<sup>19</sup> He is a professor of Islamic Law who had served as a *muftī* since 2003 until 2013. He is known for the project of revitalization of *turāth* (Islamic intellectual heritage). He calls Muslims to take the *turāth* seriously in dealing with modernity.<sup>20</sup>

One thing worth noticing is that as a *muftī*, ‘Alī Jum‘a was a government employee and part of what I call “the structural ulama”. His position of the country’s *muftī* obligated him to negotiate between state interests and people’s concerns.<sup>21</sup> With this background in mind, one can understand why Jum‘a has never shown any critical position to the ruling governments of Egypt, except during the short period of Mursī’s presidency where he publicly criticized him.<sup>22</sup> According to Fadel, this animosity to Mursī develops because the Muslim Brotherhood has a different perspective regarding hierarchy and religious authority from that of al-Azhar’s ulama which Jum‘a represents.<sup>23</sup>

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<sup>19</sup> The following are the existing study on ‘Alī Jum‘a and the Arab Spring in Egypt: Fadel, "Islamic Law and the Constitution-Making"; Warren, "Cleansing the Nation of the 'Dogs of Hell'", and Muhamad Rofiq Muzakkir, "Understanding the Discourse of 'Alī Jum'ah on the Military Coup during the Arab Spring in Egypt," *Ilahiyat Studies* 10, no. 2 (December 31, 2019): 229–63, <https://doi.org/10.12730/13091719.2019.102.196>.

<sup>20</sup> He wrote an introductory book to this an intellectual project. ‘Alī Jum‘a, *al-Ṭarīq ilā al-Turāth al-Islāmī: Muqaddimāt Ma‘rifīyya wa Madākhil Manhajīyya* (Cairo: Nahḍa Miṣrī, 2007).

<sup>21</sup> For the history of *Dār Iftā’* and *mufti* of Egypt as the government employee, read Jakob Skovgaard-Petersen, *Defining Islam for the Egyptian State: Muftis and Fatwas of the Dār Al-Iftā’* (Leiden; New York: Brill, 1997).

<sup>22</sup> Jum‘a is especially very supportive of the al-Sisi's regime. In 2021, he was appointed by al-Sīsī as a member of the parliament (*Majlis al-Nuwwab*). See Aḥmad al-Bahansāwī, <https://www.elwatannews.com/news/details/5206215>, accessed on January 18, 2022.

<sup>23</sup> ‘Alī Jum‘a and al-Azhar, which he represents, embrace an "Authoritarian Islam" that requires conformity to traditional authority, whereas the MB embraces

The political uprisings of the Arab Spring, i.e., the 2011 revolution, the ousting of Mursī, and the massacre against the members of the Muslim Brotherhood in 2013, happened during Jum‘a’s tenure as a *muftī*. He responded to those events by issuing *fatwās* and giving lectures in front of the public.

When massive protests demanding Mubārak’s resignation occurred, Jum‘a showed a rejective attitude. He issued a *fatwā* that it is forbidden to challenge the legitimacy of Mubārak and cause chaos and disorder across the country.<sup>24</sup> Protesting Mubārak, for him, is equal to causing *fitna* (discord) in society. However, when the *Tamarrud* Movement emerged in 2013, and a massive protest took place against Mursī, ‘Alī Jum‘a showed a different attitude: he supported this movement.<sup>25</sup> He still used the argument of *fitna*, not to ban people's protests, but to support them against President Mursī. Not only that, but he also explicitly agreed to the massacre carried out by the army against the protestors who asked for the restoration of Mursī’s leadership. He labeled the protestors as “rebels” (*khawārij*) and “the dogs of the hellfire” (*kilāb al-nār*). He pronounced before the gathering of the Armed Forces: “Blessed are those who kill them (*tūbā liman qatalahum*).”<sup>26</sup>

When responding to the military coup against Mursī, ‘Alī Jum‘a used several key concepts from classical legal doctrines. One fact needs to be noted that the orality of his

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"Republican Islam" which is more democratic. Fadel, "Islamic Law and the Constitution-Making".

<sup>24</sup> ‘Alī Jum‘a, “Maqṭa‘ Ṣawṭī li al-Muftī ‘Alī Jum‘a Athnā’a al-Thawra,” Youtube, 25 October 2011, at: [http://www.youtube.com/watch?v=hzf\\_79q9fKo](http://www.youtube.com/watch?v=hzf_79q9fKo), accessed on January 18, 2022.

<sup>25</sup> Youssef Belal, “Islamic Law, Truth, Ethics: Fatwa and Jurisprudence of the Revolution,” *Comparative Studies of South Asia, Africa and the Middle East* 38, no. 1 (2018), 116, <https://doi.org/10.1215/1089201x-4390015>.

<sup>26</sup> Jum‘a, “‘Alī Jum‘a wa Huwa Yakhtub Amāma ‘Askar al-Inqilāb,” [https://www.youtube.com/watch?v=s5\\_r-zV5Tj4](https://www.youtube.com/watch?v=s5_r-zV5Tj4).

discourse makes his thought less systematic, even though it is representative enough to describe how he deals with Islamic tradition on a political issue.

‘Alī Jum‘a explicitly uses the term *taghallub*. In an interview with CBC station, he pronounced: “*aṣḥābnā al-mutaghallibīn*” (we became the defeaters).<sup>27</sup> The term *taghallub*, as Jum‘a himself told the journalists who interviewed him, initially raised concern from the SCAF elites. This term creates an impression that what the military did against Mursī and his government was an illegal coup, a conclusion that the military forces wanted to avoid. Jum‘a finally clarified that *mutaghallib* is a standard term in Islamic intellectual tradition, meaning the holder of power and victory (*sāhib al-quwwa wa al-ghalaba*). He added that the term coup is also not wrong, because in principle, what the military is doing is “a positive coup” (*inqilāb maḥmūd*).<sup>28</sup>

Jum‘a claims that the act of ousting a ruler by an owner of military power is permissible in *fiqh*. This action can be made if a ruler loses his mind and his physical abilities, including when enemy captures him. Finally, Jum‘a claimed that it is permitted to oust a ruler if there is a disorder in the land and security among the people has gone (*takhtall al-bilād wa al-‘ibād*).<sup>29</sup> According to Jum‘a, Mursī has met the criteria of a ruler who deserves to be overthrown. He was not an effective ruler: the electricity, gas, and petrol crisis happened during his leadership. The daily food prices also soared very high, and more importantly, he was not liked by his people.

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<sup>27</sup> The interview was conducted on August 23, 2013, by the journalist Khairī Ramaḍān. See ‘Alī Jum‘a, “Faḍīla al-Imām al-Duktūr ‘Alī Jum‘a wa Ru‘ya Taḥlīliyya limā Yaḥduth fī al-Bilād,” [www.youtube.com](http://www.youtube.com), 2013, <https://www.youtube.com/watch?v=52DMpHZBxE4>, accessed January 18, 2022.

<sup>28</sup> Bassām Ramaḍān, “‘Alī Jum‘a: lā shar‘iyya lahu wa wajaba ‘azluh, wa man yakhruj musliḥan ‘alā al-jaish yuqtal,” [www.almasryalyoum.com](http://www.almasryalyoum.com), accessed January 19, 2022, <https://www.almasryalyoum.com/news/details/253479>.

<sup>29</sup> Jum‘a, “‘Alī Jum‘a wa Huwa Yakhtub Amāma ‘Askar al-Inqilāb,” [https://www.youtube.com/watch?v=s5\\_r-zV5Tj4](https://www.youtube.com/watch?v=s5_r-zV5Tj4).

In Islamic *fiqh*, Jum‘a said, there is a concept called “a detained ruler” (*al-imām al-mahjūr*). A ruler who acquires his position constitutionally indeed had received *bay‘a* in the beginning of his reign from his people, but there are too many instabilities during his leadership. His own subordinates then restrain him and quarantine him (*fa-aṣḥābuhū i‘taqalūhu, wa ḥajarū ‘alayhi*). They say: “sit down here and they lock him. He loses his legitimacy” (*dhahaba shar‘iyyatuhū*).<sup>30</sup> Jum‘a said that the concept of a detained ruler came from al-Juwaynī in *Ghiyāth al-Umam*. By citing classic sources, it is apparent that Jum‘a wants to ensure that what is happening in Egypt is authoritative and legal.

In addition, according to Jum‘a, the *taghallub* event involving the *fatwā* of ulama, also has precedent in modern times. He mentioned the replacement of King Sa‘ūd in the Kingdom of Saudi Arabia by King Faiṣal. It was the *muftī* of the Kingdom, named Muḥammad ibn Ibrāhim, who authorized the removal of King Sa‘ūd. This ouster occurred due to many anarchies among the society. The Kingdom’s economy was in shambles.<sup>31</sup> Jum‘a also mentioned in passing the removal of *sulṭān* ‘Abd al-‘Azīz in Morocco in the early twentieth century.<sup>32</sup>

In addition to citing traditional concepts, Jum‘a also creates a narrative about the heroism of the Egyptian army. This argument is precisely what Weber calls the charisma-based legitimacy argument. For Jum‘a, the coup can be justified because the army has always been the country’s hero and guardian. He addressed the Egyptian soldiers by saying “O the heroes and the knights” (*ayyuhā al-abṭāl al-fursān*).<sup>33</sup> He said

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<sup>30</sup> Jum‘a, “‘Alī Jum‘a wa Huwa Yakhtub Amāma ‘Askar al-Inqilāb”.

<sup>31</sup> Jum‘a, “‘Alī Jum‘a wa Huwa Yakhtub Amāma ‘Askar al-Inqilāb”.

<sup>32</sup> ‘Alī Jum‘a, “Faḍīla al-Imām al-Duktūr ‘Alī Jum‘a wa Ru‘ya Taḥlīliyya”, <https://www.youtube.com/watch?v=52DMpHZBxE>.

<sup>33</sup> ‘Alī Jum‘a, “Faḍīla al-Imām al-Duktūr ‘Alī Jum‘a wa Ru‘ya Taḥlīliyya”.

that in the history of Egypt, the military has never made a mistake. On the contrary, many of their heroic actions in the past were to protect the land of Egypt from the possibility of bloodshed by enemies from within and outside the country. Before the SCAF members, Jum‘a said that the Egyptian military had never harmed the Egyptian people, but protect them. He further mentioned that the Egyptian army permanently “removes all forms of injustice and punishes rebels.” What they are doing is “an action that God always guides.”<sup>34</sup>

Jum‘a strengthens the narrative about the infallibility and charisma of the army by mentioning several hadiths of the Prophet about the Egyptian army, which according to sciences of hadith none of them are valid. Among those hadiths are:

1. From ‘Amr ibn al-Ḥamq, he narrates that “I heard the Messenger of God say, ‘there will be civil strife, the safest people in it will be the Western Army,’ and Ibn al-Ḥamq said: “this is why I have come to you in Egypt.” [narrated by al-Ṭabrānī in *al-Mu‘jam al-Awṣaṭ* and al-Hākim in *al-Mustadrak*]
2. It is reported through Yazīd ibn Abī Ḥabīb that the Prophet said: “There will be civil strife that encompasses everyone, except the Western Army.” [narrated by Nu‘aym b. Ḥammād in his book *al-Fitan*].<sup>35</sup>

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<sup>34</sup> ‘Alī Jum‘a, “Faḍīla al-Imām al-Duktūr ‘Alī Jum‘a wa Ru‘ya Taḥlīliyya”.

<sup>35</sup> ‘Alī Jum‘a, “Ḥadīth Rasūl Allāh ‘an Jaysh Miṣr,” [www.youtube.com](https://www.youtube.com/watch?v=C8odsLLsmrI&t=573s), July 19, 2013, <https://www.youtube.com/watch?v=C8odsLLsmrI&t=573s>. The translation of these hadiths was done by Usama al-Azami. See, Jum‘a, “Tolerance in Islam [A translation of ‘Alī Gomaa’s Lecture to the Egyptian Armed Forces on August 18, 2013 – 4 days after the Rabaa Massacre],” trans. Usama al-Azami, [https://www.academia.edu/31264955/Ali\\_Gomaa\\_s\\_Lecture\\_to\\_the\\_Egyptian\\_Armed\\_Forces\\_on\\_18\\_August\\_2013\\_four\\_days\\_after\\_the\\_Rabaa\\_Massacre\\_draft](https://www.academia.edu/31264955/Ali_Gomaa_s_Lecture_to_the_Egyptian_Armed_Forces_on_18_August_2013_four_days_after_the_Rabaa_Massacre_draft) . Accessed May 18, 2019.

In fact, this ḥadīth is strongly inauthentic (*shadīd al-ḍa‘f*). See Ṣalāḥ al-Dīn ibn Aḥmad al-Idībī, “Ḥadīth al-jund al-gharbī: Ḥadīth ‘satakūn fitna, khayr al-nās fi-hā al-jund al-gharbī,” <http://idlibi.net/jundgarbi/>, accessed May 20, 2019; Muḥammad Nāṣir

Besides referencing to *fiqh* and hadith based on tradition and charisma, Jum‘a also engages with the modern notion of democracy, particularly the idea of what Abou El Fadl calls “supra-constitutional legitimacy” or “a legitimacy of streets”.<sup>36</sup> He invokes the notion of the populace’s will to justify the military coup against Muhammad Mursī at the expense of the notion of constitutional legitimacy. For him, the populace is the proper holder of sovereignty, not the constitution, not the election, and not the President. When the populace wanted Mursī to step down from his position, and the army complied with people’s will, it means that he was untenable, even though he won the presidential election. He claimed that thirty million people were protesting against Mursī in the Tahrir Square demanding his withdrawal prior to the military coup.

Jum‘a clothes the notion of people’s will with the concept of *al-sawwād al-a‘zam* (the overwhelming majority) in the Islamic tradition. This notion initially comes from the prophetic tradition that teaches Muslims to always side with the mainstream group if cleavage exists among people.<sup>37</sup> He used this notion as a political instrument to undermine Mursī’s presidency. Commenting about Mursī’s victory in the 2012 presidential election, Jum‘a said that he gained only 51%, far below the concept *al-sawwād al-a‘zam* and not representing the populace’s will. Mathematically, it equals

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al-Dīn al-Albānī, *Silsilah al-aḥādīth al-ḍa‘īfa wa al-mawḍū‘a wa atharuhā al-sayyi‘ fi al-umma* (Riyāḍ: Maktaba al-Ma‘ārif li al-Nashr wa al-Tawzī‘, 2004), XII, 1066.

<sup>36</sup> Khaled Abou El Fadl, “Egypt’s Secularized Intelligentsia and the Guardians of Truth,” in *Egypt and the Contradictions of Liberalism: Illiberal Intelligentsia and the Future of Egyptian Democracy* (London: Oneworld, 2017), 237.

<sup>37</sup> The hadith says: “*idhā ra‘aytum ikhtilāfan, fa‘alāikum bi al-sawwād al-a‘zam*” (“if you see the disputation among people, you have to side with the majority”). This hadith is compiled by Ibn Māja, and according to some hadith critics, it is *ḍa‘īf* (weak).

See islamweb.net, “Ma‘nā al-sawwād al-a‘zam wa al-‘amr bi al-luzūm al-jamā‘a al-ūlā,” <https://www.islamweb.net/ar/fatwa/210028/> معنى السواد الأعظم والأمر - بلزوم الجماعة - الأولى, accessed January 18, 2022.



only 13 million out of 25 million Egyptian voters. This number is only a quarter of the total Egyptian population, 90 million. According to his calculation, *al-sawwād al-a‘zam* should be 86 %, the number of people who protested against Mursī. Therefore, for Jum‘a, the legitimacy of Mursī that stem from election is eclipsed by the people’s protests and the army’s decision.

#### The Justification of the Military Coup Based on Tradition-Realism Reasoning

In the previous section, I have explained the definition of tradition-charisma-based reasoning. In this section, I shall elucidate the meaning of *tradition-realism-based reasoning*. Max Weber does not mention *realism* reasoning to justify domination. In my study of the discourse of the scholars regarding *taghallub*, this type of reasoning appears as a different category. In my opinion it cannot be categorized into the other three reasonings.

Realism-based reasoning can be defined as a line of thought that prioritizes and accepts an actual empirical reality, not formal rules when making considerations. In other words, this line of reasoning is preoccupied with handling a current tribulation affecting society, not the legality of the procedure. It always comes with a possibility of overriding existing codes of conduct. For this reasoning, a specific rule can be disregarded for the sake of a particular benefit. Those who embrace this line of thought are fully aware that they ignore an ideal and legal option, but they still do so to achieve something that they consider paramount, which is the stability of society. In Islamic jurisprudence, realism is represented by these two maxims: “choosing a lesser of two evils” (*irtikāb akhaff al-ḍararayn*) and “avoiding evils should be put forward before gaining benefits” (*dar’ al-mafāsīd muqaddam ‘alā jalb al-maṣāliḥ*).

Therefore, based on the above account, tradition-realism reasoning in this study is defined as an argument that combines the invocation of pre-modern intellectual concepts with a consideration of actual reality.

One thing to note is that in the context of the 2013 military coup, this tradition-based and realism-based argument is very often invoked. Many parties justify the ouster of Mursī solely to avoid instability and turmoil. Among those who used this reasoning was the Grand Sheikh of al-Azhar, Aḥmad Ṭayyib, who gave a speech on the day of the coup against Mursī. However, apart from his brief speech, he does not elaborate further on his views on the Mursī's ouster by the military. Instead, he avoids giving comments on political issues in Egypt.<sup>38</sup>

Yāsir Burhāmī in this study was chosen to represent the arguments based on tradition and realism because his discourse is the most elaborated one and the *salafī* tendency in his ideas. Throughout 2013 to 2015, Burhāmī has been repeating this topic on various occasions, both on his website and on lecture videos that can be accessed on YouTube.

#### *Yāsir Burhāmī and His Purist-Political Understanding of Tradition*

Yāsir Burhāmī, born 1958 in Alexandria, is a prominent cleric and politician of al-Nūr, an Islamist party born after the fall of Ḥusnī Mubārak in 2011. He studied medicine at the University of Alexandria and has a bachelor's degree in *Sharī'a* from al-Azhar University. Despite having a degree in medicine, he prefers a career as a cleric. He

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<sup>38</sup> He did condemn the massacre against the civilians. However, he never specifically alluded to the issue of the *taghallub* in the aftermath of the coup. See Masooda, "At the Tipping Point? Al-Azhar's Growing Crisis of Moral Authority"; Masooda Bano and Hanane Benadi, "Regulating Religious Authority for Political Gains", 1610.

started his career in the field of Islamic missions in the 1980s and served as the deputy of the Da‘wa Salafia (the Salafi Call), the most significant *salafi* movement in Egypt.

Burhāmī later became a politician after the explosion of the Arab Spring. Together with other *salafi* figures of Alexandria, Burhāmī founded the al-Nūr party. The birth of the al-Nūr party, quoting al-Anani “...broke with the historic quietism of the vast majority of Salafis...”.<sup>39</sup> *Salafi* was generally known as a movement that does not have any interest in politics, and preferred to focus only on educational, social-humanitarian, and religious activities.

In the first parliamentary election after the Arab Spring, al-NUR won 27% of the total vote. This figure shows the considerable influence of the *salafi*'s view among the Egyptian people.<sup>40</sup> After the election, al-Nūr's party formed a coalition with the Freedom and Justice Party, a political wing of the Muslim Brotherhood (MB), in a coalition called “the Democratic Alliance”. However, al-Nūr later withdrew from this coalition due to differences of opinion on the division of seats.<sup>41</sup> Later on, after the crackdown of the MB by the military regime, al-Nūr made distance from the MB. Burhāmī began to construct a stigma to the MB, including saying that this organization adheres to an extremist ideology that allows *takfir* (excommunication) to Muslims.

Burhāmī's position as the party's ideologist makes him the most vocal figure who is responsible for making explanation of why his party accepts the military coup. Thus,

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<sup>39</sup> Al-Anani, “Unpacking the Sacred Canopy: Egypt's Salafis between Religion and Politics,” in *Salafism after the Arab Awakening: Contending with People's Power*, ed. Francesco Cavorta and Fabio Merone (London: Hurst and Company, 2016), 27.

<sup>40</sup> Laurence Deschamps-Laporte, “From the Mosque to the Polls: The Emergence of the al Nour Party in Post-Arab Spring Egypt,” *New Middle Eastern Studies* 4 (August 7, 2014), <https://doi.org/10.29311/nmes.v4i0.2640>, 2.

<sup>41</sup> Al-Anani, “Unpacking the Sacred Canopy”, 37; Stéphane Lacroix, *Egypt's Pragmatic Salafis: The Politics of Hizb Al-Nour* (Washington DC: Carnegie Endowment for International Peace, 2016), [https://carnegieendowment.org/files/CP\\_287\\_Lacroix\\_al\\_Nour\\_Party\\_Final.pdf](https://carnegieendowment.org/files/CP_287_Lacroix_al_Nour_Party_Final.pdf), 11.

Yāsir Burhāmī's view of the coup against Mursī can also be said as a representative of the views of al-Nūr's party.<sup>42</sup>

Burhāmī published his views on Mursī's ouster on the website [www.anasalfy.com](http://www.anasalfy.com) in January 2014, or six months after the coup. He explains his position in *fatwā* format: a person asks a question, and he answers it based on Islamic tradition. In a letter that reached him, someone asked a legal issue about the difference between a usurper (*imām mutaghallib*) and a legitimate ruler (*waliy al-amr al-sharī*). In addition to explaining the legitimacy of *taghallub* in the Islamic intellectual tradition abstractly, he also used this *istiftā* moment to demonstrate the grounds on which his party draw to support the overthrow of Mursī.

Burhāmī explains that there are two types of *imāms*: a legitimate *imām*, a leader who is elected with a legitimate mechanism, and a usurper *imām*, a leader who rises to power through usurpation with brute force against a previous leader. Burhāmī presents *taghallub* as an accepted mechanism in the Islamic tradition. He pronounces that if a *taghallub* occurs, then formal ruling to appoint a leader must be put aside. An *umma* must accept *taghallub* as an objective fact to reject more considerable harm, namely disunity of people and bloodshed. He continues that just like a legitimate *imām*, a usurper must also be obeyed. The difference between them is that a usurper does not have to be obeyed in terms of permissible (*mubāḥ*) and recommended (*mustaḥab*) actions. If usurpation occurs, people can choose whether to obey or to disobey a ruler if he asks people to do permissible or recommended matters for him. In other words, a

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<sup>42</sup> It is noteworthy that the al-Nour party was the only Islamist party that supported the coup. Other Islamist and *salafī* parties such as al-Watan, al-Asala, and Al-Gamaa Al-Islamiyya's Construction and Development Party rejected the coup. See, al-Anani, "Unpacking the Sacred Canopy", 39, "Rethinking the Repression-Dissent Nexus: Assessing Egypt's Muslim Brotherhood's Response to Repression since the Coup of 2013," *Democratization* 26, no. 8 (June 27, 2019): 1329–41, <https://doi.org/10.1080/13510347.2019.1630610>, 1333.

usurper should only be followed in obligatory (*wājib*) matters. Unfortunately, he does not provide any actual examples of each of these permissible, recommended, and obligatory acts. Also, unlike ‘Alī Jum‘a, Burhāmī does not mention the names of certain pre-modern scholars or books on which he bases his legal pronouncement.

Drawing on the theoretical pronouncement above, Burhāmī and his party later assert that al-Sīsī had fulfilled the qualification as a usurper. He is a military general who possesses power (*shawka*) that allows him to depose the elected *imām* in a legitimate way. Because al-Sīsī is a *mutaghallib imām*, he must be obeyed according to the Shari‘a. It is also obligatory to cooperate with him in terms of the goodness and benefit of the nation.<sup>43</sup> In this regard, Burhāmī acknowledges that the actual holder of power (*shawka haqīqiyya*) in Egypt since the Mubārak era has never changed, namely the armed forces. This acknowledgment is also an implicit recognition that actions against the army are useless when a coup occurs. Burhāmī pronounces: “I will neither destroy nor oppose this power. Weakening the military will only benefit the enemy of the state.”<sup>44</sup>

Another argument that Burhāmī invokes in favor of *taghallub* relates to the number of protestors of Mursī. Like Jum‘a who uses the argument of the quantity of the mob, for Burhāmī, Mursī deserved to be overthrown given that far more people protested him than voted for him as a president. However, unlike ‘Alī Jum‘a, Burhāmī rejected the claim that the number of demonstrators present at the Tahrir Square reached 30 million people. This, according to him, is an exaggerated number.<sup>45</sup> It is also

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<sup>43</sup> Yāsir Burhāmī, “Mā Tuthbitu bihi al-Wilāya al-Shar‘iyya wa Ḥukm al-Ḥākīm al-Mutaghallib,” *Mauqī‘ Anā al-Salafī*, November 14, 2013, <https://anasalafy.com/ar/44336-ما-تثبت-به-الولاية-الشرعية-وحكم-الحاكم>.

<sup>44</sup> Yāsir Burhāmī, <https://www.youtube.com/watch?v=j29tnfoCO3U> accessed March 25, 2021.

<sup>45</sup> Yāsir Burhāmī, “Limādhā Naṣaḥtum Dr. Mursī bi al-Istiḳāla Idhā Kharaja ‘Alaih Malāyīn Dūna Ghairih,” *Mauqī‘ Anā al-Salafī*, August 27, 2013, <https://anasalafy.com/ar/42602-لماذا-نصحتم-دمر-سي-بالاستقالة-إذا-خرج-عليه>.

noteworthy that when using this argument, Burhāmī does not relate it to Islamic traditions and western political concepts as Jum‘a does when he invokes the concepts of *al-sawwād al-a‘zam* and people sovereignty.

The following argument that Burhāmī employs to justify the removal of Mursī is the view that the removal of the President can stop the ensuing *fitna* (chaos) in Egypt.<sup>46</sup> He maintains that General al-Sīsī is a strong figure with power and influence in the military. Stopping this *fitna* is impossible under Mursī because he does not have the military power to back him. In addition, Burhāmī is of the view that Mursī is not an effective leader in managing the country. During his reign, he does not embrace other elements outside the MB in Egypt.<sup>47</sup>

Burhāmī also mentions that he supports the coup to “protect the Islamic identity in the constitution and to guarantee the presence of an Islamic party able to preserve the gains of the Islamic current as a whole.”<sup>48</sup> Burhāmī seems to believe that if al-Nūr rejects the coup, there will be no more Islamic party in parliament because all of them will suffer the same fate as the Freedom and Justice Party: experiencing a crackdown. Therefore, his party must continue to exist to ensure the representation of Islamist groups in parliament. For the sake of the continuity of the Islamic political party, harm in the form of brute force for the democratization process needs to be tolerated. This argument exactly shows realism-based thinking.

In addition to formulating discourse on the legitimacy of removal, Burhāmī was also involved in a debate on the issue of the legitimacy of the protest against the MB

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<sup>46</sup> Yāsir Burhāmī, “Ḥaula Firya Ta‘āmur Dr. Yāsir Burhāmī li Izāḥa Dr. Mursī wa Ibāha Qatl al-Mutaḏāhirīn,” Mauqī‘ Anā al-Salafī, December 5, 2013, <https://anasalafy.com/ar/44781-حول-فريية-تأمر-دياسر-بر-هامي-لازاحة-دمر-سي>.

<sup>47</sup> al-Shurūq Online, “Fatwā Jadīda li Za‘īm Salafiyya Miṣra: lā Yajūz Isqāṭ al-Sīsī illā bi al-Intikhābāt,” الشروق أونلاين, May 29, 2014, <https://www.echoroukonline.com/>.

<sup>48</sup> Lacroix, *Egypt’s Pragmatic Salafis*, 12.

followers who demanded the return of Mursī's power. He rejects the persistent attitude of Mursī's loyalists who adamantly asked for Mursī's authority to be restored, even to the point of willing to sacrifice their lives. Burhāmī and Mursī loyalists argue over the interpretation of some historical events in the early period. The MB supporters claim that protesting the overthrow of Mursī by the army has precedent from the past. They follow the footsteps of Ḥusayn ibn 'Alī (the grandson of the Prophet) and 'Abd Allāh ibn Zubayr (the grandson of Abū Bakr), who demanded their rights as legitimate caliphs. Ḥusayn ibn 'Alī was killed by Yazīd's followers while demanding his right as caliph after the position was handed over by his brother Ḥasan. 'Abd Allāh ibn Zubayr was killed by Ḥajjāj, the governor of Iraq under 'Abd al-Mālīk ibn Marwān when he insisted that he was the legitimate caliph in Makkah.

Burhāmī files a refutation of this reasoning. According to him, Ḥusayn had no intention of regaining his power before he was killed. In reality, he had proposed a peaceful option to Yazīd's troops. He also has asked to be allowed to return to Makkah or to be escorted to Yazīd directly. However, this option was not taken by Yazīd's soldiers. Instead, they killed him. Thus, Ḥusayn was killed not because he wanted it. In the case of 'Abd Allāh ibn Zubayr, he had no other choice but to be killed by Ḥajjāj. This contrasts with the MB, who can withdraw from protests or stop insisting to return to the office.<sup>49</sup> For Burhāmī, what the MB does is playing victim to gain people's sympathy. They should

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<sup>49</sup> Yāsir Burhāmī, "Al-Istidlāl bi Thabāt al-Ḥusayn wa ibn al-Zubayr Raḍiya Allāhu 'Anhumā fi Muwājaha Banī Umayya 'alā Ṣiḥḥa mā Yaf' aluh Dr. Mursī," Mauqī' Anā al-Salafī, June 4, 2015, <https://anasalafy.com/ar/56932--الاستدلال-بثبات-الحسين-وابن-الزبير-رضي>.

have taken a step back, accepting an impeachment, instead of mobilizing the masses to the streets protesting the coup.<sup>50</sup>

Another aspect that distinguishes the MB case from the two historical events in the past, according to Burhāmī, is the attitude towards a usurper. After the killing of Ibn Zubayr, his supporters did not continue to protest ‘Abd al-Mālik ibn Marwān. Nor did they call ‘Abd al-Mālik a traitor or a hypocrite. They accepted him as caliph after the victory against Ibn Zubayr. On the other hand, they still recognized Ibn Zubayr as caliph before ‘Abd al-Mālik killed him. So, this is a realistic and win-win solution. This contrasts with Mursī supporters who, he argues, are stubborn of their own will.<sup>51</sup> What sounds ironic for Burhami’s statement is that instead of blaming the perpetrator of mass massacre, he blames the victim. This tendency is also present in the discourse of ‘Alī Jum‘a.

The next section explains the view of a scholar who claims to embrace the idea of self-sufficiency or purity of Islamic tradition to deal with political issues. It describes another manifestation of *salafī* tendency on the issue of the removal of Mursī.

### *The Justification of the Military Coup Based on Pure Tradition Reasoning*

In addition to tradition-charisma and tradition-realism, the acceptance of the ouster of Mursī during the time of turmoil in Egypt was also based on the claim of pure tradition. The scholars who embrace this reasoning are the so-called *salafī* or the purists. It is noteworthy that the term *salafī* are different from the conformist I mention in

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<sup>50</sup> Yāsir Burhāmī, “Ḥaula Taṣrīh Dr. Yāsir Burhāmī ‘an Al-Farīq Al-Sīsī,” Mauqī‘ Anā al-Salafī, January 20, 2014, <https://anasalafy.com/ar/46021--حول-تصريح-دياسر-بر-هامي-عن-الفريق-السيبي>.

<sup>51</sup> Burhāmī, “Al-Istidlāl bī Thabāt”.



chapter 4. While the *salafi* prefers to use a hadith-based approach, the conformist like Ibn Ḍuwayyan still abides strictly by the Ḥanbalī's positive law.

As mentioned in the previous context, *salafi* is not a single unified movement. It is best understood as a methodological tendency that favors the purity of belief in their interpretation of Islam. Also, proponents of this tendency emphasize self-sufficiency of Islamic tradition, emulation of the way the early pious Muslims (*salaf al-ṣāliḥ*) practiced Islam, condemnation of *taqlīd*, and rejection of what they deem as extra Islamic sources. In terms of stance toward politics, the nuance within *salafi* proponents is very significant: from the so-called jihadist who is willing to commit violence against an unjust ruler to the so-called quietist.<sup>52</sup> In the previous section, I have explained the position of Burhāmī, a *salafi* cleric who turns politician. In this section, I describe the position of Muḥammad Saʿīd Ruslān, a *salafi* cleric from the strand called Madkhalism,<sup>53</sup> who has a hostile attitude toward politics but supports rulers and even constructs a

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<sup>52</sup> Much research has been undertaken to explain several *salafi*'s branches, among them are: Henri Lauzière, *The Making of Salafism: Islamic Reform in the Twentieth Century* (New York: Columbia University Press, 2016); Frank Griffel, "What Do We Mean by 'Salafi'? Connecting Muḥammad ʿAbduh with Egypt's Nūr Party in Islam's Contemporary Intellectual History," *Die Welt Des Islams* 55, no. 2 (September 1, 2015): 186–220, <https://doi.org/10.1163/15700607-00552p02>; Joas Wagemakers, "Salafism," in *Oxford Research Encyclopedia of Religion*, 2016, <https://doi.org/10.1093/acrefore/9780199340378.013.255>.

<sup>53</sup> Madkhalism is a *salafi* strand referring to the thought of a scholar named Rabiʿ al-Madkhalī. The strand was maintained and developed by the Saudi Arabian government since the 1990s to offset the MB's influence during the Gulf War period. Studies on this strand include Samuel Tadros, *Mapping Egyptian Islamism* (Washington DC: Hudson Institute, 2014), [https://www.hudson.org/content/researchattachments/attachment/1444/mapping\\_egyptian\\_islamism.pdf](https://www.hudson.org/content/researchattachments/attachment/1444/mapping_egyptian_islamism.pdf), 5–8, Roel Meijer, "Politicizing Al-Jarh Wa-l-Taʿdil: Rabi B. Hadi Al-Madkh ʿAliand the Transnational Battle for Religious Authority: Essays in Honour of Harald Motzki," in *The Transmission and Dynamics of the Textual Sources of Islam*, ed. Kees Versteegh and Joas Wagemakers (Leiden: Brill, 2011), 375–99; Martijn de Koning, "The 'Other' Political Islam: Understanding Salafi Politics," in *Whatever Happened to the Islamists?: Salafis, Heavy Metal Muslims, and the Lure of Consumerist Islam*, ed. Amel Boubekeur and Oliver Roy (New York / London: Columbia University Press / Hurst Publishers, 2012).

theology of total submission to those in power.<sup>54</sup> His views on the practice of *taghallub* by the Egyptian military were shaped by such a framework.

*Muḥammad Sa‘īd Ruslān: Purist Approach and Denial Western Concept*

Muḥammad Sa‘īd Ruslān, born in 1955, is a preacher who has recently become popular in Egypt, partly because of his open hostility towards the Muslim Brotherhood and his blatant support to the ruling government. He lives in the village of Sabak al-Aḥad in Manūfiyya, Egypt. He obtained his bachelor's degree in medicine and Arabic literature from al-Azhar University and then completed his master and doctoral degrees in hadith science from the same university. Ruslān acquired permission to open an independent religious educational institution.<sup>55</sup> In 2017, he founded the Minhāj al-Nubuwwa University. This institution becomes the destination of students from various countries.<sup>56</sup>

Ruslān’s rejectionist attitude towards Western political thought is apparent in his attitude towards democracy. He believes that democracy is a system of infidels that can lead to disbelief (*wasīla kufriyya*). This is given that democracy gives human rights of legislation which should be only the right of God. Democracy is considered *ḥarām* because it gives people freedom of action to lead them to apostasy and immorality. Also, in a democracy, freedom to blasphemy is guaranteed. Ruslān then argues that the

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<sup>54</sup> Mī Muḥammad, “al-Tayyār al-Madkhalī: Siyāq al-Nash’a wa Mazāhir al-Takwīn al-Fikrī,” *Tibyān, Naṣna‘ al-Wa‘y*, March 14, 2018, <https://tipyan.com/madkhalism-emergence-and-intellectual-formation>.

<sup>55</sup> In 2018, Ruslān was banned from giving sermons by the Egyptian Ministry of Religious Affairs for refusing to follow the government's pre-prepared text of the Friday sermon. However, after a few months, his ban was lifted after promising to follow the protocol. See, al-Shurūq Online, “Ruslān Ya‘ūd ilā al-Khiṭāba wa Yad‘ū li Wulāti ‘umūr al-Muslimīn,” September 28, 2018, <https://www.echoroukonline.com/رسالن-يعود-الى-الخطابة-ويدعو-لولاية-ام>.

<sup>56</sup> Jāmi‘a Minhāj al-Nubuwwa, “Nubdhā‘an al-Jāmi‘a,” accessed January 19, 2022, <http://menhag-un.com>.

demands for democratization among Egyptians at the beginning of the Arab Spring were nothing but attempts to destroy the foundations of Islam.<sup>57</sup> He does not stop here but opposes Egypt's parties, especially those with an Islamic platform. For him, these parties have damaged the image of Islam. Establishing a party (*al-taḥazzub*) equals to making division among the *umma*.<sup>58</sup> Ruslān reminded his followers not to vote for any party during the election.<sup>59</sup>

Ruslān, in particular, rejects the al-Nūr party. He calls the members of this party to return to the Islamic mission and dissolve the party.<sup>60</sup> Islamists, for Ruslān, have destroyed the country and its people.<sup>61</sup> Ruslān is particularly hostile towards the MB because this movement mixes a spiritual dimension of Islam with a power struggle.<sup>62</sup> He also accuses the Muslim Brotherhood of teaching sectarianism and loyalty to the organization instead of the Quran and Hadith. After the coup, Ruslān made a campaign that the MB is a heretic group and a terrorist organization.<sup>63</sup> It is noteworthy that the

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<sup>57</sup> Muḥammad Sa'īd Ruslān, "Ḥaqīqa mā Yaḥduth fī Miṣr," [www.youtube.com](http://www.youtube.com) (Abu Samra Alraig, May 16, 2014), <https://www.youtube.com/watch?v=6UNPHIwWzaU>.

<sup>58</sup> Muḥammad Sa'īd Ruslān, "al-Shaikh Ruslān Yad'ū Abnā' al-Da'wa al-Salafiyya bi al-Iskandariyy ilā Ḥill al-Ḥizb wa al-'Auda ilā al-'Amal al-Da'awī," [www.youtube.com](http://www.youtube.com) (The official channel of Sheikh Muhammad bin Saeed Raslan, October 16, 2015), <https://www.youtube.com/watch?v=rMPPP92gxMU>.

<sup>59</sup> Muḥammad Sa'īd Ruslān, "Tafriḡh Khutba Ḥaqīqa mā Yaḥduth fī Miṣr," *Mauqi' Tafriḡhāt Syaikh al-Miḡna*, accessed January 19, 2022, <https://www.rslantext.com/Item.aspx?ID=24>.

<sup>60</sup> Ruslān, "al-Shaikh Ruslān Yad'ū".

<sup>61</sup> Muḥammad Sa'īd Ruslān, "al-Islāmiyyūn Afsadū al-Bilād wa al-'Ibād 'indamā Dakhalū fī Al-Siyāsa," [www.youtube.com](http://www.youtube.com) (Sada Elbalad - صدی البلد, October 13, 2015), <https://www.youtube.com/watch?v=ovP3V6qF4Rs>.

<sup>62</sup> Muḥammad Sa'īd Ruslān, "Ḥukm Al-Ikhwān: Durūs wa 'Ibar," [www.youtube.com](http://www.youtube.com) (حصريات رسلانية, July 6, 2013), <https://www.youtube.com/watch?v=90UhFke3BRI>.

<sup>63</sup> Muḥammad Sa'īd Ruslān, "Tafriḡh Khutba Jamā'a al-Ikhwān al-Irhābiyya," [www.rslantext.com](http://www.rslantext.com) (Mauqi' Tafriḡhāt al-'Allāma Ruslān), accessed January 19, 2022, <https://www.rslantext.com/Item.aspx?Id=1045>.

detachment of politics from religion resonates with the western conception of religion.<sup>64</sup> In other words, there is an element of secular sensibilities on this this discourse.

Ruslān's view on the overthrow of Mursī is as follows. He accepted this event as a manifestation of the *taghallub* concept in the Islamic tradition. However, he does not elaborate on other methods of establishing rulership in Islam, making an impression that his idea on *taghallub* does not appear as a systematic political thought. Instead, it is only a justification of reality that had been transpiring. It seems that Ruslān does not care about how one acquires power. However, once he has got it, he must be obeyed. Ruslān emphasizes that even if a leader is unjust and corrupt, he must still be obeyed. In this case, he refers his stance to the position of Aḥmad, an eponym of Ḥanbalī *madhhab* and a figure who is widely seen as a reference by the *salafi* activists. Ruslān states: "Even though Aḥmad lived under al-Wāthiq's regime who followed the heretic theology of al-Jahmiyya, he still acknowledged al-Wāthiq's political authority and refused to criticize him openly."<sup>65</sup>

Ruslān claims that scholars have a consensus regarding the obligation of obedience to a usurper. If a person has succeeded in doing *taghallub*, then he is entitled to the rights of a leader (*wajabat lahu ḥuqūq al-imām*). Obedience to a usurper is obligatory in matters other than disobedience. Despite his claim of consensus, in

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<sup>64</sup> Talal Asad, "Anthropological Conceptions of Religion: Reflections on Geertz," *Man* 18, no. 2 (June 1983): 237, <https://doi.org/10.2307/2801433>; Reza Pankhurst, *The Inevitable Caliphate?: A History of the Struggle for Global Islamic Union, 1924 to the Present* (New York, N.Y.: Oxford University Press, 2013), 7-13.

<sup>65</sup> Muḥammad Sa'īd Ruslān, "al-Intikhābāt al-Ri'āsiyya," [www.youtube.com](http://www.youtube.com) (The official channel of Sheikh Muhammad bin Saeed Raslan, December 12, 2017), <https://www.youtube.com/watch?v=Mdz9C9zO7Dw>; "Hal Yu'addu min al-Khurūj 'alā Dr. Mursī (Ḥafīzahū Allāh) Muḥārab Bid'atih Huwa wa Jamā'atu," [www.youtube.com](http://www.youtube.com) (Ahmed Zakaria, May 7, 2013), <https://www.youtube.com/watch?v=rEoQNwdV2eQ>.

nowhere he provides the evidence to support such an assertion. In line with ‘Alī Jum‘a, Ruslān also invokes the label of *khawārij* (rebels) to anyone who opposes a leadership of a usurper. He uses this term to label Mursī loyalists in particular.<sup>66</sup> Not only did he support the military overthrow of Mursī, Ruslān also forbade elections that would allow anyone to challenge al-Sīsī as Egypt’s leader. He declares: “the leader must not be challenged in his status and position, and there must be no rivalry against him (*waliy al-amr lā yunāza ‘fī maqāmihi wa manṣibihi, wa lā munāfasa ‘alaihi*).” Ruslān said that the electoral system or a referendum to determine the President is *ḥarām*. Therefore al-Sīsī’s leadership must continue without elections and last forever.<sup>67</sup>

#### *The Denial of the Military Coup and their Tradition-Legal Based Reasoning*

In the previous section, I have explained what I mean by a justification of rulership based on tradition, namely the use of pre-modern intellectual legacy to legitimize leadership. In this section, I will explain the term “legal-based reasoning”.

Weber defines this reasoning as “a belief in the legality of enacted rules and the right of those elevated to authority under such rules to issue commands (legal authority).”<sup>68</sup> In other words, a legitimate leader, according to this reasoning, is someone who “occupies his position of dominance (*Herrenstellung*) by virtue of appropriation, of election, or of having been designated for the succession.”<sup>69</sup> In this kind of reasoning, a legitimacy of rulership is seen as coming from legal order, laws, constitution, or written

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<sup>66</sup> Muḥammad Sa‘īd Ruslān, “al-Sīsī Imām Mutaghallib wa man Yu‘arīḍuh Fahuwa min al-Khawārij,” [www.youtube.com](http://www.youtube.com/watch?v=MlSc8py3Z6c) (الوافي نيوز, July 29, 2013), <https://www.youtube.com/watch?v=MlSc8py3Z6c>.

<sup>67</sup> Ruslān, “al-Intikhābāt al-Ri‘āsiyya.”

<sup>68</sup> Weber, *Economy and Society*, 215.

<sup>69</sup> Weber, *Economy and Society*, 220.

rules. According to Max Weber, this kind of reasoning is a hallmark of modern society. An obligation to obey this authority comes from a legality of his office, not from his strong personality, as in the case of charisma-based reasoning. In other words, a leader's legitimacy comes from a formal system that is binding. Furthermore, this type of argument requires regularity and consistency with rules and always opposes changes through illegal acquisition. Changes still can be accommodated but only through legal means. Therefore, according to this reasoning, an overthrow of a ruler or a coup by a military rank stands in opposition with any meaning of a legal order.

An argument based on legality as described above was also used by the deniers of the military coup against Mursī in Egypt, such as Yūsuf al-Qaraḏāwī and Khaled Abou El Fadl. Just like the previous group who accepted the coup based on tradition, they at the same time also wrapped legal arguments with tradition. Thus, the illegitimacy of the military acquisition of power in Egypt is supported by two types of arguments simultaneously: Islamic tradition and legality of the modern Egyptian political system. The details of their arguments will be described below.

*Yūsuf al-Qaraḏāwī: Critiques to Fellow Azharis and Contemporisation of the Traditional Concepts*

Yūsuf al-Qaraḏāwī is the former chairman of the International Union of Muslim Scholars and a prominent Azhari cleric; he is an Egyptian who resides in Qatar since 1961. He joined the Muslim Brotherhood at a very young age but decided to leave and be politically unaffiliated.<sup>70</sup> He pursued his Ph.D. degree in hadith from al-Azhar University

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<sup>70</sup> Husam Tammam, “Yusuf Al-Qaradawi and the Muslim Brothers: The Nature of a Special Relationship,” in *Global Mufti: The Phenomenon of Yusuf Al-Qaraḏāwī*, ed. Jakob Skovgaard-Petersen (New York: University of Columbia, 2009); Aaron Rock-Singer, “Scholarly Authority and Lay Mobilization: Yusuf Al-Qaradawi’s Vision of Da‘wa,

in 1973. He started his career outside of Egypt as a *mufti* of Qatar and the dean of the faculty of shariah at the Qatar University.

Al-Qaraḍāwī gains an influence worldwide and later on will be known as a global *mufti* through his weekly dialogue in the program *al-Sharī'a wa al-Ḥayā* (Shariah and Life) in al-Jazeera Tv Channel and several websites he establishes such as *Qaradawi.net* and *Islamonline*.<sup>71</sup> His books and *fatwās* have also been translated into several languages.

During the Arab Spring in 2011-2013, al-Qaraḍāwī was one of the most outspoken clerics responding to political turmoil in the Arab countries. He produces several discourses to intervene with the political upheaval in the region. He supports the January 25 revolution against Ḥusnī Mubārak. Al-Qaraḍāwī states that Mubārak, who had ruled for 30 years, had lost the legitimacy (*faqada shar' iyyata*). He no longer holds solid support from Egyptian society since 90% of Egyptians wanted his downfall. Al-Qaraḍāwī asks Mubārak not only to step down but also to leave the country.<sup>72</sup> Subsequently, when the Egyptian military conducted a military coup against Muḥammad Mursī, he denied its legality. He called this event as a criminal coup (*inqilāb mujrim*)

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1976-1984,” *The Muslim World* 106, no. 3 (July 2016): 591, <https://doi.org/10.1111/muwo.12135>.

<sup>71</sup> Sami E. Baroudi, “Sheikh Yusuf Qaradawi on International Relations: The Discourse of a Leading Islamist Scholar (1926–),” *Middle Eastern Studies* 50, no. 1 (January 2, 2014): 3, <https://doi.org/10.1080/00263206.2013.849693>.

<sup>72</sup> For al-Qaradawi’s discourse deprecating the legitimacy of Mubārak and al-Sīsī, see Youssef Belal, “Islamic Law, Truth, Ethics,” *Comparative Studies of South Asia, Africa and the Middle East* 38, no. 1 (May 1, 2018): 107–21, <https://doi.org/10.1215/1089201x-4390015>; Aria Nakissa, “The Fiqh of Revolution and the Arab Spring: Secondary Segmentation as a Trend in Islamic Legal Doctrine,” *The Muslim World* 105, no. 3 (June 25, 2015): 398–421, <https://doi.org/10.1111/muwo.12098>.

and a usurpation of civil democratic power based on *shūra (iḡhtiṣāb al-ḥukm al-shūrā al-madanī)*.<sup>73</sup>

Al-Qaraḏāwī's discourse on the coup is relatively more elaborate than the previous clerics discussed even though he conveys such a discourse in his writings and TV interviews. In general, the character of his discourse is twofold: first, persuasive, because he addresses the Egyptian people in general to reject the coup; second, dialectic, because he formulates it as a counterargument to the that of supporters of the ouster of the President, particularly 'Alī Jum'a.

In rebuking 'Alī Jum'a, al-Qaraḏāwī bases his discourse on the same foundation, i.e., tradition. He verifies and traces the arguments of Jum'a on the issue of *taghallub* from the source that his fellow Azhari scholar has references to. He criticizes Jum'a for only throwing the name of scholars and the titles of the books, avoiding quoting their ideas verbatim. For instance, 'Alī Jum'a mentioned al-Juwaynī and his *Ghiyāth al-Umam* but without sufficient explanation about the entirety of the ideas and its context.

Al-Qaraḏāwī also censures Jum'a for distorting *turāth*. He rebuts the claim of Jum'a that the notion of *al-imām al-mahjūr* (a detained ruler) is a consensus of jurists. In reality, al-Qaraḏāwī quotes al-Māwardī, those who accept a usurper without qualifications are only the jurists of Iraq. The majority of jurists hold a position that if a usurper acquires his power without people's consent and reasonable means, i.e., an election of the committee (*ikhtiyār ahl al-ḥall wa al-'aqd*), his leadership is rejected. Furthermore, according to *madhhab* Shāfi'i in general, a usurper can be accepted only in

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<sup>73</sup> Yūsuf al-Qaraḏāwī, "al-Taḏāhur ḏidd al-Inqilāb al-Mujrim Farḏ 'Ain," [www.al-qaradawi.net](http://www.al-qaradawi.net), accessed January 19, 2022, <https://www.al-qaradawi.net/node/632>; "Mā Yaḏlubuh al-Miṣriyyūn min Shaikh al-Azhar," [www.al-qaradawi.net](http://www.al-qaradawi.net), June 23, 2014, <https://www.al-qaradawi.net/node/2738>.



the situation when a former ruler has passed away. His acquisition of power is tolerable only when he usurps it from a usurper as well, not from an existing legitimate ruler. If he usurps it from a ruler who acquires his power through an election and people's oath (*ikhtiyār wa al-bay‘a*), leadership of such a usurper can never be legitimate. Al-Qaraḏāwī also censures Jum‘a’s discourse for presenting Islamic tradition as if it legitimizes any usurper and for describing acceptance of usurpation as a general norm. In reality, the pre-modern ulama only accepts it as an emergency solution (*darūra*).<sup>74</sup>

Moreover, by employing this notion of *taghallub* to justify the coup against Mursī, al-Qaraḏāwī argues, ‘Alī Jum‘a has made democracy impossible to achieve in Egypt. According to the logic of ‘Alī Jum‘a, healthy and constitutional democracy only works for non-Muslim societies in the eastern and western world. Muslims have to accept their exceptionalism that whoever usurps the power must be obeyed.<sup>75</sup>

In contrast to ‘Alī Jum‘a who praises the Egyptian army highly, al-Qaraḏāwī calls them a corrupt force and malicious. Since the ouster of Mubārak, the army had been trying to hijack people’s revolution by dividing the forces of the anti-Mubārak revolution, creating enmity among them. They cooperated with the Supreme Constitutional Court (*al-Maḥkama al-Dustūriyya*), Mubārak’s business elite, and the media to kill the hopes of a revolution. After the coup against Mursī, the military regime massacred peaceful

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<sup>74</sup> Yūsuf al-Qaraḏāwī, “Rudūd ‘ilmiyya ‘alā al-Shaikh au al-Jinrāl ‘Alī Jum‘a,” [www.al-qaradawi.net](http://www.al-qaradawi.net), September 17, 2013, <https://www.al-qaradawi.net/node/2849>.

<sup>75</sup> Yūsuf al-Qaraḏāwī, *Khawārij baina al-Dīn wa al-Tārīkh wa al-Siyāsa* (Interview of Al-Jazeera with Yūsuf Al-Qaraḏāwī), August 25, 2013, <https://www.aljazeera.net/programs/religionandlife/2013/8/26/الحوار-بين-الدين-والتاريخ-والسياسة>.

demonstrators and imprisoned critical activists. In reality, the army does not protect the community but is hostile to it.<sup>76</sup>

Al-Qaraḍāwī further criticizes Jum‘a for counterfeiting (*tazyīf*) the Prophet’s traditions about the western army (*al-jund al-gharby*) which he uses as a justification for the coup. Jum‘a attributes the hadith narrated by Ibn al-Ḥamq to *Saḥīḥ Muslim*, a popular book of hadith which contains only authentic narrations. In fact, this hadith comes from *al-Mustadrak* of al-Ḥākim, *Musnad al-Bazzār*, and *al-Mu‘jam al-Awsaṭ* of al-Tabrānī.<sup>77</sup> Jum‘a also does not mention the status of this hadith as weak and forged as well as the fact that two narrators are unknown (*majhūl*). By doing this, Jum‘a, according to al-Qaraḍāwī, is nothing but a servant of power, a cleric who devotes himself to the military and police elite (*‘abd al-sulṭā wa ‘āmil al-shurṭa*).<sup>78</sup>

Another fatal mistake Jum‘a makes in his discourse on the removal of Mursī, according to al-Qaraḍāwī, was his *fatwā* on how the military should take action against the protestors who support Mursī. Al-Qaraḍāwī argues that Jum‘a had violated the opinion of the ulama by giving orders for the military to kill the protestors. In the *fiqh* of the rebellion, jurists state that a ruler should not crush his political opponents by directly using physical force, let alone shooting them dead. If there is another possible way, that is the way to go. However, in reality, al-Qaraḍāwī says, Jum‘a even trusts the thugs used by the military more than he trusts the ulama. Not only does he deviate from the way of

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<sup>76</sup> Yūsuf al-Qaraḍāwī, “Kalima Faḍīla al-Imām Yūsuf al-Qaraḍāwī Ra’īs al-Ittiḥād al-‘Ālamī li ‘Ulamā’ al-Muslimīn li al-Sha‘b al-Miṣrī ḥaula Intikhābāt Ri’āsa al-Damm,” [www.al-qaradawi.net](http://www.al-qaradawi.net), May 25, 2014, <https://www.al-qaradawi.net/node/787>.

<sup>77</sup> Hadiths from the *Saḥīḥ Muslim* book have different wording, namely: “lā yazāl ahl al-gharb ḡāhirīn ‘alā al-ḥaqq ḥattā taqūm al-sā‘a” (people of the west will always stand on the truth until the day of judgment).

<sup>78</sup> Yūsuf al-Qaraḍāwī, “Rudūd ‘ilmiyya ‘alā al-Shaikh au al-Jinrāl ‘Alī Jum‘a.”

the ulama, but he also openly turns his back on the scripture. He ignores the verses of the Quran and the hadiths that forbid bloodshed.<sup>79</sup>

Unlike ‘Alī Jum‘a who denounces the legitimacy of Mursī because he had no real ability to govern and the fact that most of Egyptians were against him, for al-Qaraḍāwī, Mursī’s legitimacy should remain. In his rebuttal to Jum‘a, al-Qaraḍāwī pronounces:

“Legitimacy remains with the election that nation has conducted, General ‘Alī [Jum‘a]! President Mursī was elected by the majority with 100 % clean election, by the constitution supported by several elections, and by the *Shūrā* Council that supported it, and it remained in place until the military coup broke promises and crossed borders. This legitimacy is like a firm hill that neither a military nor a civilian can overthrow it or move it from its place.”<sup>80</sup>

According to al-Qaraḍāwī, the legitimacy of Mursī stemmed from two aspects. First, Mursī was elected through a clean and fair election. In this regard, al-Qaraḍāwī invokes legal-based reasoning to support Mursī. Al-Qaraḍāwī mentions that he came to power through people’s will (*al-muntakhab bi irāda al-umma*). He won 51 % of the total ballots. This is, in fact, the first time in Egypt where a presidential election was held democratically. There was no manipulation of votes like what happened in any presidential election before. For al-Qaraḍāwī, an election in a democratic country equals the concept of *bay‘a* (an oath of loyalty) in the traditional Islamic political concept. Once people already give their oath, they abide by it. Al-Qaraḍāwī states: "Whoever gets elected he is [a leader whom] as if people said to him, we pledge an allegiance, and we make an oath of obedience and loyalty to you."<sup>81</sup> In reality, ‘Abd al-Fattāḥ al-Sīsī was

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<sup>79</sup> Yūsuf al-Qaraḍāwī, “Radd ‘alā Muftī al-‘Askar (‘Alī Jum‘a),” [www.al-qaradawi.net](http://www.al-qaradawi.net), November 10, 2013, <https://www.al-qaradawi.net/node/2836>; al-Qaraḍāwī, “Rudūd ‘ilmiyya ‘alā al-Shaikh au al-Jinrāl ‘Alī Jum‘a,”

<sup>80</sup> al-Qaraḍāwī, “Radd ‘alā Muftī al-‘Askar (‘Alī Jum‘a),”.

<sup>81</sup> al-Qaraḍāwī, “Khawārij baina al-Dīn wa al-Tārīkh,”.

among those making such an oath. By ousting Mursī, therefore, “al-Sīsī betrayed his covenant to Allah and made destruction on earth.”<sup>82</sup>

Second, Mursī was elected based on the sovereignty of the constitution (*shar‘iyya al-dustūr*). He maintains that the legitimacy that originates from the constitution is robust. It cannot be dropped either by the military or the civilians. He pronounces: “Constitutions regulate people and prevent them from doing evils by following their whims.”<sup>83</sup> Al-Qaraḍāwī equates the constitution to the concept of an agreement (*shurūṭ*) in the Islamic tradition. He quotes a hadith wherein the prophet Muhammad has said that: “Muslims have to abide by their agreement. Whatever they accept and agreed upon, they have to fulfill, except what requires them to transgress Allah’s rules by allowing what God has forbidden and forbidding what He has allowed.”<sup>84</sup>

From the *sharī‘a* point of view, al-Qaraḍāwī contends, Mursī did not carry anything worth disobeying. He did not commit any sin (*ma‘ṣiyah*) and order people to become infidels (*kufr bawwāḥ*). Al-Qaraḍāwī claims that all of the crisis that was happening during Mursī’s short period was caused by the military sabotage over him, not from his failure. Rhetorically, al-Qaraḍāwī asks: “How can we cancel the constitution that *umma* has agreed upon? Sixty-two percent of *umma* has agreed to the constitution that through which Mursī received the mandate.”<sup>85</sup>

Another argument that Yūsuf al-Qaraḍāwī invokes to defend the right of Mursī as a President is the fact that Mursī and his party had an Islamic platform. Al-Qaraḍāwī has

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<sup>82</sup> al-Qaraḍāwī, “Khawārij baina al-Dīn wa al-Tārīkh,”.

<sup>83</sup> al-Qaraḍāwī, “Khawārij baina al-Dīn wa al-Tārīkh,”.

<sup>84</sup> Yūsuf al-Qaraḍāwī, “Waqafāt ma‘a Shaikh al-Azhar wa Qaḍiyya al-Inqilāb ‘alā al-Shar‘iyya,” [www.al-qaradawi.net](http://www.al-qaradawi.net), September 17, 2013, <https://www.al-qaradawi.net/node/2848>.

<sup>85</sup> al-Qaraḍāwī, “Khawārij baina al-Dīn wa al-Tārīkh,”.

perceived Egypt as facing the threat of secularism. With the ouster of Mursī, Egypt will become more secularized. ‘Alī Jum‘a, on the other hand, maintains that Egypt does not need Islamist parties like the Muslim Brotherhood because Egypt is already Islamic and will never become un-Islamic. He mentioned the fact that the French law crafted by Rifā‘a Ṭahtāwī was never applied in Egypt.<sup>86</sup> To rebut the claim of Jum‘a about the absence of secularism in Egypt’s history, al-Qaradawī mentioned several laws that he deems contradictory to the sharī‘a. First, he mentions criminal law no. 273, which states that the adulterer can only be punished if one of the spouses brings the case to the police. If they do an extramarital relationship with consent from each other, they are not punishable. Second, he points to criminal law no. 274 that states that the married women can be jailed for two years for committing adultery while married men are free. The Egyptian law does not recognize adultery except when one of the adulterers is married. Third, he also refers to Egyptian law no. 63 1976 that allows people to sell and drink wine in certain places.<sup>87</sup> In short, al-Qaradāwī defends the legitimacy of Mursī because he considers him and his political party as the guardian of Islamic teaching in Egypt’s politics.

*Khaled Abou El Fadl: Rejection of the Coup and Critique to Tradition*

Khaled Abou El Fadl is an Egyptian-American scholar. He received his bachelor from the University of al-Azhar and Yale University, a J.D from the University of Pennsylvania, as well as a master and Ph.D. from Princeton University with a dissertation on rebellion in Islamic law (*aḥkām al-baghy*). He is a professor of law at the University of California, Los Angeles, and a cleric who has been very active giving Islamic

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<sup>86</sup> al-Qaradāwī, “Khawārij baina al-Dīn wa al-Tārīkh,”.

<sup>87</sup> al-Qaradāwī, “Khawārij baina al-Dīn wa al-Tārīkh,”.

lectures. In 2017 Abou El Fadl founded the Usuli Institute. Every Friday through this institute, he gives a sermon that is also broadcasted online on social media. Abou El Fadl is also known for his writings censuring the so-called Wahhabi *salafi* group.<sup>88</sup>

In 2011, after the resignation of Ḥusnī Mubārak from the office, Abou El Fadl returned to Egypt to celebrate the euphoria of the people's revolution and be directly involved in the reconstruction process of this country in the new period. During the period he returned to Egypt, he attended several meetings with the military, especially after al-Azhar issued a document called the Declaration of al-Azhar (*Wathīqah al-Azhar*), which expressed the support for the democratization process and the importance of people's will. Thus, despite being an Egyptian diaspora, Abou El Fadl witnessed firsthand how the military devised a strategy to return to power and become the force that thwarted the January 2011 revolution.<sup>89</sup>

Abou El Fadl has been very active in commenting and responding to the military overthrow of Mursī. He has written opinions in various international media, including Al Jazeera, New York Times, HuffPost and Australian Broadcasting Corporation. He also writes book chapters and articles published in journals related to this topic. The coup and, more specifically, al-Sisi's dictatorship are still one of the Abou El Fadl's primary concerns. In numerous occasions, he brings this issue in his lectures and sermons.<sup>90</sup>

For Abou El Fadl, the military coup in 2013 cannot be separated from a more comprehensive narrative about the army's authoritarianism. Thus, the coup was a

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<sup>88</sup> Khaled Abou El Fadl, *The Great Theft: Wrestling Islam from the Extremists* (New York, N.Y.: HarperOne, 2007); *Speaking in God's Name: Islamic Law, Authority and Women* (Oxford: Oneworld, 2001); *Reasoning with God: Reclaiming Shari'ah in the Modern Age* (Lanham, Boulder, New York, London: Rowman & Littlefield, 2014).

<sup>89</sup> Abou El Fadl, "The Praetorian State in the Arab Spring," 309.

<sup>90</sup> Abou El Fadl's sermons are published in <https://www.usuli.org> and <https://www.searchforbeauty.org/friday-khutbahs-latest/>

product of the history of military institutions, not just the personal action of al-Sīsī, who at that time served as a minister of defense. The armed forces have a colonial spirit attached to themselves. Contrary to the claim of Jum‘a, Abou El Fadl maintains that they have been acting oppressively towards the Egyptian people throughout modern history.<sup>91</sup> The military and the judiciary are two secular institutions that are corrupt and authoritarian that refuse to be controlled by the people.<sup>92</sup> The military always feels that they are the only people who know its future and have the authority to define what the national interest is. Anyone who goes against the military is bound to be wrong and must be silenced.<sup>93</sup> Thus, in contrast to ‘Alī Jum‘a, who put the military as patriots and heroes of the nation, for Abou El Fadl, this institution was the source of all system breakdowns in Egypt.

In addition to giving his views to the military institutionally, Abou El Fadl also focused a lot on ‘Abd al-Fattāḥ al-Sīsī who was in control of the military during the coup and after it. Abou El Fadl commented: “It is clear that Sīsī’s government is a fascist government, out of the worst hellhole; a page out of the worst scenarios of human dictators, the likes of Hitler and Pinochet.”<sup>94</sup>

After Mursī’s fall, Abou El Fadl documents how al-Sīsī committed unprecedented crimes against humanity that were never even committed by Ḥusnī Mubārak, who ruled for 30 years. Over the past few years, al-Sīsī has imprisoned more than 100,000 people. Through his security system, he has tortured detainees, including raping women in

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<sup>91</sup> Abou El Fadl, "The Praetorian State in the Arab Spring," 309.

<sup>92</sup> Khaled Abou El Fadl, “The Perils of a ‘People’s Coup’ in Egypt,” UCLA, July 9, 2013, <https://newsroom.ucla.edu/stories/the-perils-of-a-people-s-coup-247323>.

<sup>93</sup> Abou El Fadl, “Failure of a Revolution”, 262.

<sup>94</sup> Khaled Abou El Fadl, “Death by Doctrine of the ‘Legitimacy of the Usurpers’, Usuli Institute Khutbah, 25 September 2020,” [www.youtube.com](http://www.youtube.com), September 27, 2020, [https://www.youtube.com/watch?v=1E1e\\_Sf8u9M](https://www.youtube.com/watch?v=1E1e_Sf8u9M).

prison. He also closed Islamic television channels and news agencies that conveyed material against his government's will. He closed many mosques in Egypt because they did not operate under the official system of government through the Arab Ministry of Endowments.<sup>95</sup>

Al-Sīsī's regime has also executed hundreds of young people by accusing them of being part of a terrorist cell without proper trial. In the month of Ramaḍān 1442/2021, the al-Sīsī's administration executed seventeen political prisoners on terrorism charges without a process of self-defense and a fair trial. Among the executed people were people who had nothing to do with politics, such as Shaykh 'Abd al-Rahīm Jibrīl, a shaikh whose daily activities were only teaching the Quran in Germany.<sup>96</sup> Al-Sīsī also disbanded the April 6 youth movement, which played a significant role in pushing for the resignation of Ḥusnī Mubārak and was also a pawn for the military during the coup against Mursī.<sup>97</sup> Worse than all, al-Sīsī is a figure supported by the US to perpetuate Israel's presence in the Arab region.<sup>98</sup>

Besides criticizing Egyptian institutions and al-Sīsī, Abou El Fadl also criticizes the idea and concept of *taghallub* itself. In this regard, Abou El Fadl's position is unique compared to the previous ulama. Even al-Qaraḍāwī, who also rejects the coup, is unwilling to denounce this concept. Abou El Fadl's views in this topic are influenced by

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<sup>95</sup> Abou El Fadl, "Death by Doctrine of the 'Legitimacy of the Usurpers'.

<sup>96</sup> Khaled Abou El Fadl, "The Last 10 Days of Ramadan and Bearing Witness for Shaytan, Usuli Institute Khutbah, 30 April 2021," [www.youtube.com](https://www.youtube.com/watch?v=LVNG4ScAZrc), May 1, 2021, <https://www.youtube.com/watch?v=LVNG4ScAZrc>.

<sup>97</sup> Khaled Abou El Fadl, "Who's Afraid of the Islamists? From Attaturk to Al-Sisi, from John Dewey to Fox News," ABC Religion & Ethics, May 15, 2014, <https://www.abc.net.au/religion/whos-afraid-of-the-islamists-from-attaturk-to-al-sisi-from-john-/10099256>.

<sup>98</sup> Abou El Fadl, "Egypt's Secularized Intelligentsia," 242; Abou El Fadl, "The Last 10 Days of Ramadan,".



both Islamic traditions and the conception of legitimate government in the modern sense. From a legal and constitutional perspective, according to Abou El Fadl, a military coup is an act that destroys the ideals of civilian leadership and an act that rejects the legitimacy that comes from ballots and the constitution. He acknowledged the fact that Mursī was an incompetent and unpopular president. However, a return to a military regime is a return to the much worse darkness of authoritarianism. For Abou El Fadl, defending Mursī was not stemming from his personality but because his leadership embodied the constitutional legitimacy and freedom in Egypt. He maintains that the price to be paid by receiving the *taghallub* is too high. He wrote: “One truly hoped that the Arab Spring was the beginning of a new era in which it would be finally understood that sovereignty belongs to the people, and that the exclusive and sole way that the sovereign will can be expressed – and hence, the only way to gain legitimacy – is through the integrity of the process.”<sup>99</sup>

Abou El Fadl criticizes the so-called liberal intellectuals who always use modern political language but abandon the notion of constitutional legitimacy in the case of Mursī. This group has always voiced the importance of democracy, freedom, secularism, civil society, and citizenry. However, they use double standards. When Mursī took the leadership, their democratic discourse disappeared and turned into a phobia of Islamist groups. They legitimized the coup, which is not in line with the logic of democracy. They also turned their blind eye when the military killed many of Mursī's followers. It is as if human rights only apply to groups other than Islamists. When al-Sīsī was in power, they

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<sup>99</sup> Abou El Fadl, “Egypt's Secularized Intelligentsia,” 238.

ignored the fact that there was no press freedom in Egypt.<sup>100</sup> Abou El Fadl called this phenomenon the illiberalism of liberalism.<sup>101</sup>

Like other scholars, Abou El Fadl also bases his interpretation of *taghallub* on the Islamic tradition. For Abou El Fadl, the Islamic tradition is rich, but it must be excavated first to get its beauty. The Islamic tradition is full of moral lessons to deal with the dynamics of modern politics. In terms of politics, Muslims have a brief history of the leadership of the time of the *khulafā' al-rāshidūn*. In that early period, the establishment of leadership was always based on the people's consent. There is no coercion, *taghallub* practices, and authoritarianism. Abou El Fadl then criticizes the ulama who support totalitarianism. In particular, he singles out the *salafī* and *sūfī* groups who hold the view that the concepts of democracy and human rights are not considered suitable to be applied to Muslims.<sup>102</sup> For them, the concept of the people's consent is not needed in Muslim countries. These *salafī* and *sūfī* groups support the dictatorial regimes in the Middle East. They do not believe that the *taghallub* system is an emergency measure like the pre-modern ulama held, but rather an ideal system that needs to be preserved. To justify this

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<sup>100</sup> Khaled Abou El Fadl, "The Collapse of Legitimacy: How Egypt's Secular Intelligentsia Betrayed the Revolution," ABC Religion & Ethics, July 11, 2013, <https://www.abc.net.au/religion/the-collapse-of-legitimacy-how-egypts-secular-intelligentsia-bet/10099748>; Abou El Fadl, "The Perils of a 'People's Coup' in Egypt," "Egypt's secularized intelligentsia", 235-252.

<sup>101</sup> In fact, the view that liberalism is inherently illiberal, hypocritical, racist, and ideologically intolerant of difference is also a contention of many other scholars. See, Charles Wade Mills, *Blackness Visible: Essays on Philosophy and Race* (Ithaca, N.Y.: Cornell Univ. Press, 1998); Domenico Losurdo, *Liberalism a Counter-History*, trans. Gregory Gregory (London and New York: Verso, 2014); Massad, *Islam in Liberalism*.

<sup>102</sup> The *salafī* group refers to the Egyptian *salafī* parties, which are ideologically heavily influenced by the Saudi Arabian *salafī*. The *sufi* group in this statement refers to the thoughts of Abdullā ibn Bayyā and his student Hamzah Yusuf. Ibn Bayyah, at the peace forum in 2014, a year after the overthrow of Mursī, said that currently, democracy is not suitable for the Islamic world. Read Usaama al-Azami, "Abdullāh Bin Bayyah and the Arab Revolutions: Counter-Revolutionary Neo-Traditionalism's Ideological Struggle against Islamism," *The Muslim World* 109, no. 3 (July 2019): 343–61, <https://doi.org/10.1111/muwo.12297>.

theology and a corrupt usurper, they have hijacked the Prophet Muhammad. Abou El Fadl satirically says: “Yes, consent of the governed is nice. Yes, justice is nice. But the Prophet commanded that you obey the ruler, regardless of whether that ruler has a consent and whether that ruler achieves justice or not. Obey the ruler, even if that ruler commits injustice, including human rights abuses.”<sup>103</sup>

For Abou El Fadl, it is backwardness and stupidity in the modern period when everyone talks about clean, peaceful, and constitutionally legitimate elections, the ulama from the *salafī* and *sūfī* groups still justify the acquisition of power by violence.<sup>104</sup>

Abou El Fadl’s criticism is not only against contemporary scholars who accept the classical tradition uncritically, but also on pre-modern ulama who allow this practice of *taghallub* to become a valid practice for centuries. Abou El Fadl especially criticizes the hadith scholars during the formation period who condemned the hadiths that teach critical attitudes to rulers as weak and the pacifist hadiths as valid. He contends: “Notice that, throughout this despotic history, it is the Hadiths that espouse obedience to unjust rulers that have been declared authentic, yet the Hadiths that espouse disobedience to unjust rulers that have been declared inauthentic.”

He continues:

“Bluntly, the science of Hadiths was not an objective science, it was a science influenced by political ideologies. Unjust despots in the past, as they do today, put pressure on scholars so they ended up giving us this legacy of oppression, despotism and injustice. The scholars of Hadiths acted very much like the jokers of today, avoiding political confrontation.”<sup>105</sup>

According to Abou El Fadl, contemporary Muslims need to be more selective in reading political hadiths about obedience and rebellion. They need to look at the

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<sup>103</sup> Abou El Fadl, “Death by Doctrine of the ‘Legitimacy of the Usurpers,’”

<sup>104</sup> Abou El Fadl, “Death by Doctrine of the ‘Legitimacy of the Usurpers,’”

<sup>105</sup> Abou El Fadl, “Death by Doctrine of the ‘Legitimacy of the Usurpers,’”

historical context in general. In the classical period, authoritarianism and ideological conflict were rampant. In order to avoid bloodshed due to power struggles, Hadith scholars intentionally or unintentionally finally accepted certain narrations and negated other narrations. Thus, the science of hadith for Abou El Fadl is not a discipline that is free from the intervention of the authorities and contains objective information.

Having described four approaches to the issue of *taghallub* during the Arab Spring, in the next section, I compare how those ulama, both who accepted the military coup and those who rejected it, read tradition and negotiate with modern political thought.

#### *The Legitimacy of the Coup: Negotiation between Tradition and Modernity*

Unlike in the pre-modern period, where the opinions of the ulama eventually experienced uniformity after the seventh/thirteenth century, in the twenty-first century during and after the moment of the Arab Spring, the ulama had different orientations and tendencies in responding to the *taghallub* issue. This fragmentation of modern opinions is a continuation of a similar trend in the early twentieth century which I described in the previous chapter.

The discourses of the five ulama studied in this chapter towards the pre-modern *taghallub* and the contemporary military coup can be categorized into three stances: first, accepting both the classical conception of *taghallub* as well as the practice of the military coup in Egypt in 2013; second, accepting the classical concept of *taghallub* as part of the Islamic tradition but rejecting its application to Mursi's leadership; third, deconstructing the classical discourse and the contemporary practice altogether.

In the following paragraphs, I shall discuss four issues where in which the five ulama share and differ.

### The Vocabularies and Concepts from Islamic Tradition

Despite many differences, which I will discuss below, these five scholars have one common point: the strong influence of pre-modern Islamic traditions in their discourses. They all see Islamic tradition as a reference in responding to the actual events of the military coup against Mursī today. Tradition is considered a source of ethical and epistemological lessons to answer the modern predicament. For the ulama, to borrow Mona Hassan's term: "...the past was not dead and forgotten, but a fecund source of inspiration to be creatively reconfigured and imagined..."<sup>106</sup>

These five ulama invoke the same vocabularies from Islamic tradition, namely *taghallub* and *shawka*. It also noteworthy that besides sharing these terms, each of them also has his specific vocabulary. The justifiers of the coup, i.e., 'Alī Jum'a, Yāsir Burhāmī, and Sa'īd Ruslān, invoke the concept of *fitna* (discord in society), especially when responding to the people's protest against Mubārak. 'Alī Jum'a, in particular, invokes the notion of *al-sawwād al-a'zam* (the bulk majority) to refer to a number of protestors and *al-jund al-gharbī* (the western army) from the hadith to demonstrate the heroism of Egypt's army. Likewise, al-Qaraḍāwī invokes the idea of *bay'a* (an oath of loyalty to a ruler) as an agreement between the ruler and the ruled. Still, Abou El Fadl cites the political practice of the *al-khulafa' al-rāshidūn* from the early period of Islamic history as an ideal example in establishing leadership. These different concepts demonstrate that the ulama are creative in constructing the discourse.

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<sup>106</sup> Hassan, *Longing for the Lost Caliphate*, 66.

In this regard, I contend that this attitude of referring to the Islamic past is what distinguishes the ulama as the custodian of tradition from mere intellectuals. In other words, tradition and history always serve as the backbones of any forms of attitudes and political tendencies the ulama hold. By contrast, for liberal intelligentsia, traditions are inanimate objects, and historic events which already passed and, therefore, are irrelevant. When these secular intellectuals respond the political events like the ouster of Mubarak, they immediately refer and put western political concepts as benchmark. They accused Mursī and his followers of building a theocratic system. Furthermore, they call people to embrace western liberal and secular paradigm of government.<sup>107</sup> By contrast, for these ulama, just like the ulama in the early modern period, tradition is a living memory that shapes their attitude and state of mind.

Tradition for these ulama, as Klusmeyer also argues, “provides both a collective framework for remembrance and collective set of interpretive guideposts for comprehending the meaning of events in the present.”<sup>108</sup>

It is clear that the tendency to refer to tradition or what Sherman Jackson has called “backward looking” is an effort to build legitimacy of discourse among Muslim scholars.<sup>109</sup> As I repeatedly maintain in this work, this how tradition works: a Muslim scholar would never claim an idea without grounding it on historical scholarly figures in the past. Such a repetition that makes a scholar’s discourse seem authoritative and

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<sup>107</sup> Current research shows that most of these liberal intellectuals are in favor of the ouster of Mursī. In fact, they are one of the main actors that made the coup possible. Some of them in latter period become the enemy of the state and had to flee from the country. Their reasoning that lends legitimacy to the hijack of democratic process is beyond this study. See, Dalia F Fahmy and Daanish Faruqi, eds., *Egypt and the Contradictions of Liberalism: Illiberal Intelligentsia and the Future of Egyptian Democracy* (London, England: Oneworld, 2017).

<sup>108</sup> Douglas B. Klusmeyer, “Hanna Arendt on Authority and Tradition,” in *Hannah Arendt: Key Concepts* (Routledge, 2014), 140.

<sup>109</sup> Jackson, *Islamic Law and the State*, 80.

legitimate in the eyes of public. This tendency, as I have argued before, is in total contradiction with that of the modern western philosophers who see the past as dark moment and immaturity. To mention one example, August Comte, a modern sociologist, reminded his readers, “not to read the ancient philosophers so as not to be polluted by their ideas.”<sup>110</sup>

### Divergence from the Pre-Modern Legal Ordinance

Besides drawing on Islamic intellectual tradition in its classical form, in certain aspects of their discourse the ulama also differ and extend the meaning of pre-modern concepts in some other respects.

The most apparent case at hand is the issue of *taghallub* itself. ‘Alī Jum‘a predicates his discourse allowing the coup against Mursī on the thought of al-Juwaynī in his *Ghiyāth al-Umam*. However, the way he understands al-Juwaynī’s view is problematic. As I have described in chapter 3, al-Juwaynī’s view on usurpation is swinging between four aspects, namely: personal quality of a usurper, a military power that a usurper mobilizes, people’s obedience to him, and a contract with *ahl al-ḥall wa al-‘aqd*. In other words, al-Juwaynī does not accept a usurpation unconditionally. ‘Alī Jum‘a, however, presents al-Juwaynī as if he acts as only an enabler of any person willing to acquire power and as if al-Juwaynī does not pose any restriction to usurpation. Jum‘a does not present the complexity of al-Juwaynī’s ramification of the issue. In short, Jum‘a understanding and deployment of *turāth* is selective.

Another example of the ulama divergence from the pre-modern ideas is the invocation of the concept *khawārij*. ‘Alī Jum‘a, Yāsir Burhāmi, and Sa‘īd Ruslān, the

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<sup>110</sup> Jackson, *Islamic Law and the State*, 80.

three justifiers of the coup, invoke this term to designate the sympathizers of Mursī who rejected the legitimacy of the military coup. The invocation of this term implies that these scholars treated the followers of the deposed President as rebels. Even though this term is classical, however, the designation of this concept to the protestors of the coup followed by the justification of their massacre do not correspond to the way classical-medieval scholars talk about rebellion.

According to Khaled Abou El Fadl in his well-known study of the topic, the pre-modern Sunni ulama did prohibit rebellion against a government and placed people's obedience to a ruler as a norm in Islamic law. However, that being said, they did not condemn rebels, particularly if they have a political reason (*ta'wīl*). Moreover, for them, rebellion is not a sin and crime, and therefore, rebels should not be tortured, let alone killed. Instead, they must be treated with persuasion. Rebellion, according to the traditional Islamic legal norm, is only a civil infraction. A ruler is allowed to fight rebels only if they turn to violence. In other words, fighting against them is not to nullify them but to stop the harm they cause.<sup>111</sup> This ruling from legal tradition about rebellion stands at odd with the justification of massacre by Jum'ā, Burhāmi, and Ruslān.

Speaking from a broader perspective, pre-modern ulama were always cautious about giving too much power to a ruler. To give caliph or *sulṭān* limitless authority is something outside of their consideration. Therefore, they had always attempted to counterbalance rulers instead of being a mere rubber stamp. Pre-modern ulama realized that they possess a significant status as producers of legal discourses that rulers cannot intervene. Ulama, particularly jurists, are the ones who have more power to determine

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<sup>111</sup> Abou el Fadl, *Rebellion and Violence in Islamic Law*, 232-3.



the application of a law, not rulers.<sup>112</sup> As Noah Feldman notes: “Through their near monopoly on legal affairs in a state where God's law was accepted as paramount, the scholars—especially those of them who focused on law—built themselves into a powerful and effective check on the ruler.”<sup>113</sup>

The three justifiers of the coup, by contrast, are acting as the boosters of the authority of the state. They do not attempt to position themselves as balancers, let alone controllers of the ruler. In this regard, I argue that the *fatwā* which Jum‘a issues that allows a military leader to kill civilians undoubtedly diverges from classical Islamic legal norms. Rather than coming out from the epistemology of tradition, it is a product of a nation-state system that allows the state to coerce, control, and punish disloyal individuals.

It should be admitted that punishment against disloyal people by a government certainly existed in the pre-modern Islamic political system. In reality, some ulama were also persecuted by rulers for holding unorthodox views. However, it must be remembered that a ruler’s hegemony had never stood as absolute against indocile people thanks to the locus of legal authority in Islam lays at the hand of the ulama. Therefore, I contend that it is the western paradigm of nation-state and citizenship that allow the contemporary ulama, including Jum‘a, Burhāmī, and Ruslān, to imagine that a state stands above its people. These scholars justified the authoritarian system and the state massacre against civilians because in their framework the state has the unrestricted power to punish recalcitrant citizens framework. This also confirms what Max Weber argues that a modern

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<sup>112</sup> Abou El Fadl, *Rebellion and Violence in Islamic Law*, 94-5; Wael B Hallaq, *Shari‘a*, 125-135.

<sup>113</sup> Feldman, *The Rise and The Fall of Islamic State*, 6.

state has a right to impose and to claim, “the monopoly of legitimate physical violence...”<sup>114</sup>

Another example of the extension of the meaning of the classical concept is the issue of *bay‘a*. Al-Qaraḏāwī identifies an election as *bay‘ā* (an oath of allegiance). In the classical sense, in the writing of al-Māwardī for instance, *bay‘ā* was restricted in the hand of people of election (*ahl al-ḥall wa al-‘aqd*). Al-Māwardī even says that one person's *bay‘ā* is accepted. If only one candidate for a ruler exists, a *bay‘ā* can be nullified. The only existing candidate can immediately be a caliph. Moreover, for al-Māwardī, *bay‘ā* of the electors does not contradict with usurpation by a holder of power (*al-istīlā‘ ahl al-shawka*). Meanwhile, for al-Qaraḏāwī, an election as a modern manifestation of *bay‘ā* lies at people's hands. In other words, *bay‘ā* or election represents people's will (*irāda al-umma*). In al-Qaraḏāwī's account, the election is also binding. It cannot be abrogated by any means, including usurpation, except by an election itself.

These three examples show how contemporary ulama bring novelty when reading and interpreting pre-modern concepts, even when they claim their judgments are purist, predicated solely on tradition. The material context of the contemporary period and encounters with western epistemology contribute to such a philosophical expansion of ideas.

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<sup>114</sup> Weber, *The Vocation Lectures*, 33; See also, Brian R Nelson, *The Making of the Modern State: A Theoretical Evolution* (New York: Palgrave Macmillan, 2006), 107; Hallaq, *The Impossible State*, 29-30.

### Critiques to *Turāth* (Pre-Modern Intellectual Legacy)

In contrast to the tendency of all scholars in the early modern period to see the practice of *taghallub* as a stain in Islamic history, not all scholars in this period have the same perspective. Of the five figures in this chapter, only Abou El Fadl criticizes the prevalence of *taghallub* and the discourse of classical scholars. In this regard, Abou El Fadl approaches the Islamic tradition both appreciatively and critically, whereas the other four scholars accept usurpation as an objective historical fact without criticizing it.<sup>115</sup>

Abou El Fadl's approach is the same as that of the reformists in the early twentieth century, namely Riḍā and al-Sanhūrī, who criticize the thought and practice of Islamic politics in the post-classical and classical era and propose the earliest Islamic traditions as an alternative to rectify the course of corrupt history. Thus, for Abou El Fadl and the reformist scholars of the early twentieth century, the Islamic tradition had a dual position: on the one hand, it is the subject of reform; on the other, it also served as an inspiration for modern human life.

### Resonance with Western Concept of Legitimacy

Both the discourse of the justifiers and the deniers of the coup resonate with the thoughts of some western political thinkers in a specific way. This phenomenon demonstrates how modern epistemology influences and shapes the discourses of the contemporary Muslim ulama.

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<sup>115</sup> One caveat: this statement applies only to the issue of *taghallub*. It does not negate the fact that the other four ulama may contextualize *turāth* on other issues. Yūsuf al-Qaraḍāwī, in particular, is well-known for calling to his fellow scholars to renew Islamic jurisprudence. Read Warren, "Debating the Renewal of Islamic Jurisprudence,". Nevertheless, he does not embrace this position on the issue of *taghallub*.

I contend that the view of the justifiers of the coup resonates with what I call a tendency of violent legitimacy in western political thought. For thinkers who embrace this paradigm, true political power is power to dominate people. This view was started by Machiavelli, who said that “a successful prince must be willing to use violence judiciously.”<sup>116</sup> Thomas Hobbes, who agrees with this line of thought, holds that human physical strength needs to be used to achieve domination, even with the sword.<sup>117</sup>

Carl Schmitt, known as the “Hobbes of the twentieth century”, is the pinnacle of this authoritarian view.<sup>118</sup> He decreed: “Sovereign is he who decides on the exceptional case.”<sup>119</sup> For Schmitt, holder of power can use any means to rule, achieve order, stability, and peace, including abolishing the rule of law or constitution and employing armed forces.<sup>120</sup> In principle, politics is a field of discretion instead of general rules that demand obedience and conformity.<sup>121</sup> Also, for Schmitt, a ruler has a monopoly on determining what is needed to resolve the situation, including “the decision to designate the domestic enemy.”<sup>122</sup> In this case, Schmitt criticizes Western thinkers and the

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<sup>116</sup> Elizabeth Frazer and Kimberly Hutchings, “On Politics and Violence: Arendt Contra Fanon,” *Contemporary Political Theory* 7, no. 1 (February 2008): 91 <https://doi.org/10.1057/palgrave.cpt.9300328>.

<sup>117</sup> Frazer and Kimberly Hutchings, “On Politics and Violence,” 91.

<sup>118</sup> Jacob Als Thomsen, “Carl Schmitt: The Hobbesian of the 20th Century?,” *Social Thought and Research* 20, no. 1/2 (April 1, 1997): 5–28, <https://doi.org/10.17161/str.1808.5137>.

<sup>119</sup> Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty* (Chicago: University of Chicago Press, 2005), 5.

<sup>120</sup> George Schwab, “Introduction” to *Political Theology*, l. Schmitt did support article 48 of the Weimar State's constitution, which allows the act of military coup when a chaotic situation occurs. In the history of the Weimar, thanks to this article, particularly 48 point 2, the coup occurred in 1932 in the Free State of Prussia carried out by Franz von Papen. See, Schwab, “Introduction,” xiv; Schmitt, *Political Theology*, 11-2.

<sup>121</sup> Tracy B. Strong, “Foreword”, *Political Theology*, xvii.

<sup>122</sup> Schwab, “Introduction,” xlviii-l.

principles of liberal democracy, which are overly procedural, legalistic, and constitutional, and ignores the possibility of 'other ways' of asserting power.<sup>123</sup>

The justifiers of the coup, namely ‘Alī Jum‘a, Yāsir Burhāmī, and Sa‘īd Ruslān, embrace the same ideas. They disregard the constitution, which does not recognize the coup as legitimate to depose a president. They considered the army as the real sovereign and, therefore, enjoy discretion to carry out the coup and decide who a national threat is. For them, Mursī's reign was exceptional, and he was not the sovereign leader despite his position as President. This is due to the fact that people did not obey his command. As with western liberal thinkers, these ulama also justified acquiring power through violence. They believe that the exercise of violence against peaceful civilians is valid as long as the army carries it out to achieve stability.

The view of the deniers of the coup, on the other hand, resonates with what I call a tendency of non-violent and procedural democracy in a western tradition. Hans Kelsen is probably the most popular political philosopher who advocates the idea of legalism in democracy. He wrote an article entitled “Wer soll der Hüter der Verfassung sein” (Who should be the Guardian of the Constitution?) to rebut Carl Schmitt’s ideas of the sovereign. According to him, following “the perspective of jurisprudence the state must be purely juristic, something normatively valid.”<sup>124</sup> Kelsen totally ignores Schmitt’s sovereignty, which gives the ruler discretion to act outside the law. For him, the state is a legal order that all processes must follow constitutional procedures. The state as a legal institution is positivist and objective. On the importance of the constitution, he wrote:

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<sup>123</sup> Schmitt, *Political Theology*, 7, 14, 32.

<sup>124</sup> Schmitt, *Political Theology*, 11.

“The political function of the constitution is to set legal limits on the exercise of power. Constitutional guarantees ensure that these legal limits are not transgressed.”<sup>125</sup>

Kelsen is of the view that a coup is extra-constitutional. He views coups as undemocratic acts. In contrast to Schmitt, Kelsen criticized the 1932 coup in Prussia by the Weimar Federal government based on Article 2 of article 48 of the Weimar Constitution.<sup>126</sup> According to him, this action has diminished the role of a legal order and has actually increased the hegemony of the President's power.

I argue that both al-Qaraḏāwī and Khaled resonate with this tendency of procedural democracy in western political thought.

### *Conclusion*

In this chapter, I have explained the response of the scholars regarding the removal of Mursī by the Egyptian military on July 3, 2013, explaining how their stance on this issue also reflects their views on the pre-modern concept of *taghallub*.

From the aspect of reasoning employed, the discourse of these scholars can be classified into four, namely: (1) the acceptance of the coup based on pure tradition, (2) the acceptance based on tradition and charisma, (3) the acceptance based on tradition and realism, (4) and the rejection based on tradition and legal reasoning. In this chapter, I use, elaborate, and go beyond Max Weber's theoretical view on the justification for domination to explain the views of the ulama above.

In this chapter, I have also explained four issues related to the negotiation between tradition and modernity in which these five scholars share and differ. These

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<sup>125</sup> David Dyzenhaus, *Legality and Legitimacy: Carl Schmitt, Hans Kelsen, and Hermann Heller in Weimar* (Oxford; Toronto: Oxford University Press, 2003), 109.

<sup>126</sup> Dyzenhaus, *Legality and Legitimacy*, 132.

four issues are: (1) the influence of Islamic tradition; (2) divergence from the pre-modern legal ordinance; (3) critical approach to *turath*; (4) resonance with the western concept of legitimacy.

In this conclusion, I shall mention a distinct phenomenon about *taghallub* that appeared during and aftermath of the Arab Spring, which did not occur in the previous period. While the early modern period or the early 20<sup>th</sup> century witnessed the emergence of nuances in the views of scholars, the 21<sup>st</sup> century saw a new phenomenon, namely the issue of usurpation becoming a channel through which scholars claim Islamic normativity and orthodoxy. This phenomenon is demonstrated by the effort “to preempt each other's space and capability to act as a rightful custodian.”<sup>127</sup> The Arab Spring moment thus not only witnessed the process of exclusion from nationhood, as David Warren suggests,<sup>128</sup> but also exclusion from the Islamic normativity.

In the early modern period, differences in utterances and methods regarding the issue of *taghallub* did not cause tension among scholars. However, in the Arab Spring period, this issue has caused the ulama to attempt to exclude each other. ‘Alī Jum‘a, for example, said that al-Qaraḍāwī had suffered from Alzheimer's. He also calls him a compulsive wild (*kadhḥāb*), and a disbeliever (*kāfir*).<sup>129</sup> Al-Qaraḍāwī, on the other hand, mocked Jum‘a as clergy who serves the Armed Forces. He accuses him of being a liar and making up the story,<sup>130</sup> and he distorts information in his speeches to support the ouster of Mursī. Al-Qaraḍāwī doubts the authority of Jum‘a as a legal scholar.<sup>131</sup>

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<sup>127</sup> SherAlī Tareen, *Defending Muhammad in Modernity*, 11.

<sup>128</sup> Warren, “Cleansing the Nation of the ‘Dogs of Hell’,” 466-7.

<sup>129</sup> Jum‘a, “‘Alī Jum‘a wa huwa yakḥṭub amāma,”

<sup>130</sup> Yūsuf al-Qaraḍāwī, “Hākadhā Yulabbis al-Shaikh au al-Jinrāl ‘Alī Jum‘a wa Hākadhā Yudallis,” [www.al-qaradawi.net](http://www.al-qaradawi.net), October 3, 2013, <https://www.al-qaradawi.net/node/2838>.

<sup>131</sup> al-Qaraḍāwī, “Rudūd ‘Ilmiyya ‘alā al-Shaikh al-Jinrāl,”

This exclusion phenomenon confirms what Talal Asad postulates: there will always be claims about the correct belief (orthodoxy) and practices (orthopraxy) in the discursive tradition. Asad wrote: “A tradition consists essentially of discourses that seek to instruct practitioners regarding the correct form and purpose of a given practice that, precisely because it is established, has a history.”<sup>132</sup>

According to Asad’s theory, various rationality and arguments regarding the emerging tradition will always compete and lead to inclusion and exclusion from Islamic normativity. Asad wrote: “Wherever Muslims have the power to regulate, uphold, require, or adjust correct practices, and to condemn, exclude, undermine, or replace incorrect ones, there is the domain of orthodoxy.”<sup>133</sup>

Asad’s theoretical view, in my opinion, is also in line with Foucault’s concept, which postulates that in every discourse, whether hegemonic or subversive, there is always power. In other words, for Foucault, power is dispersed in any discourse.

Foucault wrote:

“We must make allowances for the complex and unstable process whereby a discourse can be both an instrument and an effect of power, but also a hindrance, a stumbling point of resistance and a starting point for an opposing strategy. Discourse transmits and produces power; it reinforces it, but also undermines and exposes it, renders it fragile and makes it possible to thwart.”<sup>134</sup>

The process of condemnation, exclusion from orthodoxy and exercise of power above is what exactly happened in the Egyptian public after the ouster of Mursī. It is obvious that those who attain the status of orthodox and being considered as authoritative clerics are those who hold a view about the permissibility of the coup.

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<sup>132</sup> Asad, *The Idea of an Anthropology*,” 14.

<sup>133</sup> Asad, *The Idea of an Anthropology*,” 22.

<sup>134</sup> Michel Foucault, *The History of Sexuality*, (Harmondsworth: Penguin Books, 1998), I: 100-1.



Meanwhile, the opposite view that denies the coup is marginalized and labeled as heterodox, deviant, misguided. This happens because their discourse is contrary to the will of the authorities.

After explaining the development of the *taghallub* concept in the pre-modern period, the stances of the ulama in the early 20th century, and in the Arab Spring, in the next chapter, I shall present the summary of the long evolution of ulama's discourse as well as my contribution. I will also discuss how the ulama's view of usurpation inform the modern Islamic political thought and religious studies in general.

## CHAPTER SIX

### CONCLUSION

Usurpation of power has become a perennial issue in Islamic political thought, given that it has already transpired in the early era and still befalls a contemporary Muslim political system. Throughout history, the ulama's discourse who respond to the events of usurpation of power has undergone several crucial junctures. The pre-modern period witnessed three significant historical phases: formation, elaboration, and synchronization, and the modern period witness discursive plurality. In this long evolution, the discourse of usurpation of power, both in terms of substantive opinion and modality of opinion, experience viability and change. My research documents that modernity has generated various approaches to the agreed-upon pre-modern legal norm of usurpation of power. Despite substantive differences among them, the ulama responded to recurrent phenomena of usurpation in Islamic history by mobilizing Islamic intellectual legacy.

The usurpation of power has materialized in history since the early period of Islam. The four initial events that prompted the emergence of discourse among ulama are the accession of Mu'āwiya and his dynasty to the position of caliph, the overthrow of 'Abd Allāh ibn Zubayr by 'Abd al-Mālik ibn Marwān, the extermination of the al-Nafs al-Zakiyya who made a claim as a caliph, and the ouster of al-Umayyads by the Abbasids. The four eponyms of four legal schools: Abū Ḥanīfa, Mālik, Shāfi'ī, and Aḥmad, have different stances regarding these four political issues. A distinctive feature of this period is that the discourse of the eponyms was mere reports and not very systematic yet. The early theologians, especially the Mu'tazila, also held dissimilar ideas among themselves even though they shared the common epistemological foundation, i.e., the five principles

of theology (*uṣūl al-khamsa*). These early jurists and theologians were more preoccupied with stating their stances on early conflicts rather than theorizing a usurpation of power itself. Al-Jāhīz, the Mu‘tazila scholar, made a significant theoretical contribution to this issue by elaborating it as a specific subject in his various works in the field of *kalām*. In principle, he refuses to legitimize the usurper and instead calls him a rebel.

In the next two centuries, namely the third/ninth to fourth/tenth centuries, two political crises associated with the usurpation of power occurred, namely: local seizure (*istilā’ alā al-imāra*) and domination over caliph by foreign warlords called *amīr al-umarā’* or *sultān (al-ḥijr)*. The first phenomenon refers to the emergence of independent dynasties that broke away from the control of the Abbasid's central government in the city of Baghdad. These local rulers established a new political dynasty by overthrowing local rulers appointed by the caliphs. The second phenomenon refers to the wardship of the non-Arab warlords against the Abbasid caliphs. They did not only control the government but also install and remove the caliph at their will. The jurists and theologians responded to these two phenomena in different ways. Their theorization of power revolves around four aspects: a usurper’s possession of a military capacity, his probity, quality of a usurped ruler, and a contract of usurper or usurped with *ahl al-ḥall wa al-‘aqd*. The scholars who contributed theoretically to this period are Abū ‘Abd Allāh al-Ḥalīmī, Qāḍī ‘Abd al-Jabbār, Abū Ḥasan al-Mawardi, and Abū Ma‘ālī al-Juwaynī. One thing that should be noted is that compared to the previous period, the discourse of the ulama in this period was more elaborate. The similarity between the two periods is the fact that there was no uniformity in the perspective of the ulama regarding usurpation. Until this period, the approaches and substantive opinions of the ulama were still very diverse. It ranges from rejection to accommodation with certain conditions.

The period between the seventh/ thirteenth until tenth/ sixteenth centuries witnessed the next significant leap in the career of the discourses. The political crisis that influenced the discourse of the ulama was the ubiquity of usurpation of power, especially in the sultanate of the Mamlūks in Egypt who had played a role as the pillar of the re-establishment of the Abbasid caliphate after the Mongol attack on Baghdad in 656/1258. The views of the scholars regarding usurpation in this period onward experienced synchronization and simplification at the same time. Thanks to the epistemology of *taqlīd*, the accepted paradigm was that the scholars need to abide by the existing norms within legal and theological schools. Even though this was not always the case with all legal issues, as ulama were still able to modify the prevailing legal position of *madhāhib* through the mechanism of *fatwā* (legal responsa),<sup>1</sup> we hardly find any dissenting opinion concerning the acceptance of usurper. Thus, by the end of the ninth/fifteenth, nearly all the scholars accepted the usurpation of power and placed it as the third mechanism to establish imamate after the method of designation and election of *ahl al-ḥall wa al-‘aqd*. The scholars partaking in the discussion of this topic in this period are Ibn Qudāma, al-Nawawī, Ibn Jamā‘a, and al-Kamāl ibn al-Humām.

However, even though those ulama accepted usurpation as a means to acquire power, there was some nuance in their discourse. Among others, Ibn Qudāma concedes the furthest by criminalizing the act of taking back power from a usurper. Ibn Jamā‘a and his teacher, al-Nawawī, only legitimize the act of usurpation against another usurper or the one taking place during a vacuum situation. Ibn al-Humām, who lived in the end

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<sup>1</sup> Wael B Hallaq argues that the *fatwā* and books of commentary (*sharḥ* and *ḥawāshī*) are two discursive mechanisms that enable a jurist to make a change to the *madhhab*'s substantive opinion. See, Wael B Hallaq, *Authority, Continuity, and Change in Islamic Law* (Cambridge, UK; New York: Cambridge University Press, 2005), particularly chapter 6.

of the Mamlūks period, accepts the usurpation of a corrupt ruler. Eventually, at the end of the twelfth/nineteenth century, the ulama's discourse merged at one particular position: accepting power usurpation. Another remarkable thing from the pre-modern period concerns the source of the ulama's discourse on usurpation. Their ideas were entirely grounded on self-reference, meaning the pre-modern ulama do not refer to sources outside Islamic tradition. What they do is ensuring that their ideas are relying on the authoritative traditions from the past. The intellectual tradition in the pre-modern period, therefore, became a scaffolding upon which the next generation of ulama predicate their ideas on to respond to their specific social-political circumstances.

In the modern period, the relative uniformity of scholarly discourse on usurpation has been disrupted. The collapse of the sultanate and caliphate of the Ottomans and, in general, the encounter with western political thought are two important backgrounds that make the plurality of ulama's discourse possible. From the twentieth century onward, nuances and spectrums in the discourse of scholars, both at the level of substantive opinion regarding usurpation and at the level of approach in viewing tradition, have occurred. The emergence of this discursive plurality includes, to borrow MacIntyre's term, "rejection, emendation, and reformation of beliefs, the reevaluation of authorities, the reinterpretation of texts, the emergence of new forms of authority, and the production of new texts."<sup>2</sup> Four approaches that emerged in the early twentieth century to the issue of usurpation are the reformist, the secularist, the apologist, and the conformist. The figures who contributed theoretically to usurpation in this period are: Muḥammad Rashīd Riḍā, 'Abd al-Razzāq al-Sanhūrī, 'Ali Abd al-Rāziq, Ibn Duwayyān, and Muḥammad Ḍiyā' al-Dīn Rayyis. In addition to the difference in

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<sup>2</sup> MacIntyre, *Whose Justice? Which Rationality?*, 355.

approaches to Islamic intellectual tradition, these ulama demonstrate some dissimilarities in their perception of western political philosophy.

The twenty-first century, which witness the political upheaval of the Arab Spring, became a critical moment for the development of the discourse on usurpation. The political crisis in this period that prompted the ulama to review and deploy the pre-modern issue of usurpation was the military coup against President Mursī in 2013. Among the scholars who put forward distinctive reasoning in rejecting or accepting the coup were: ‘Alī Jum‘a, Yāsir Burhāmi, Muḥammad Sa‘īd Ruslān, Yūsuf al-Qaraḍāwi, and Khaled Abou El Fadl. In this period, in addition to the continuity of plurality of ulama’s approaches to the issue of usurpation, there are two other unique aspects in the discourse of the ulama. First, the western political philosophy has evenly infiltrated the discourse of all ulama from various tendencies, both accepting and rejecting the coup. The tendency of violent legitimacy and constitutional legitimacy in western thinkers, in particular, has infiltrated Muslims scholars’ thoughts. Second, usurpation becomes an issue through which competition and exclusion from Islamic normativity and orthodoxy among ulama occur.

It is important to note that despite the ulama’s different perspective on Western political ideas, all modern scholars, both in the early twentieth century and in the Arab Spring period, ground their discourses on Islamic intellectual tradition (*turāth*). Whatever the methodological tendencies of the ulama in viewing usurpation, they employ what MacIntyre calls a “tradition-constitutive inquiry”<sup>3</sup> and worth calling “traditionalist”. In other words, tradition always stand as the backbone of their arguments.

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<sup>3</sup> MacIntyre, *Whose Justice? Which Rationality?*, 354.

The ulama's reliance on tradition informs us one important aspect about modern Islamic political thought. Unlike its western counterpart, the ulama has always perceived the past as a source of inspiration for their intellectual project. Constructing a discourse without predicating on the memory of the past is inconceivable for them. For the western post-Enlightenment thinkers, by contrast, the past has devalued with the advent of modernity which eventually make them indifferent and even hostile toward tradition. Therefore, the epistemological reference for these intelligentsia originates only from the modern period itself. Hannah Arendt in this regard has argued that the obsession with novelty and progress has led the western thinkers, starting from Machiavelli onward, to subvert the authority of the past.<sup>4</sup> Carl Schmitt and Max Weber have even argued that secularization of political concepts is inevitable.<sup>5</sup> For Schmitt, in particular, modernity does not only transform the sacred into profane but also lead to eradication of the sacred itself.<sup>6</sup> Speaking to the likes of Schmitt, my research documents that Islamic political thought does not undergo this process at the hand of the ulama. These Muslim scholarly groups always mobilize historical and normative arguments from tradition to respond to their political predicament.

One remark needs to be said about the position of my research within the current orientation in academia. My study avoids the hegemony of liberal values within academia. Weberian liberal and secular paradigm, in particular, tend to dismiss the role of tradition. Modern society is considered by this paradigm as getting more secular. According to its logic, secularization is an inevitability of modernity, which eventually

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<sup>4</sup> Hannah Arendt, "What Was Authority," in *Authortiy*, ed. Carl J. Friedrich (Cambridge, Massachusetts: Harvard University Press, 1958), 98-110.

<sup>5</sup> Carl Schmitt, *Political Theology*, 36; Max Weber, *The Vocation Lectures*, 30.

<sup>6</sup> Carl Schmitt, *The Leviathan in the State Theory of Thomas Hobbes: Meaning and Failure of a Political Symbol*, trans. George Schwab and Erna Hilfstein (Connecticut, London: Greenwood Press, 1996).

lead to the loss of the role of religion in politics. Therefore, one does not need to look at theological structure and intellectual tradition from the past to study political thought of modern society. Some Western historians even invoke secularization, which is totally western modern construction, to read Islamic premodern history. In my research I argue that the study of religion, particularly Islam, needs to pay attention to tradition: meaning vocabularies, ideas, and modalities from intellectual legacy, which the practitioners or scholars of Islam invoke.

My study also speaks to scholars like Wael Hallaq, Joseph Massad, and Junaid Quadri who define tradition in a narrow manner positing that any effort to reform Islamic tradition with western ideas is no longer traditional discourse. Hallaq, in particular, has argued that with the coming of modernity and its constitutive elements, such as colonialism and nation-state system, tradition suffers from the “structural demolition” and “annihilation of an entire pre-modern apparatus of knowledge”.<sup>7</sup> It follows that any adjustment from conventional *madhhabs*’ doctrines is no longer tradition.

I have argued in this dissertation that any effort to rearticulate and reconfigure tradition as long as still draw on vocabularies, ideas, and modalities from intellectual legacy of Islam is still traditional discourse even when it engages with western modern philosophies. Tradition is wide umbrella which give shade to different tendencies and rationalities.

In general, my study contributes to the existing study by explaining the long development of the discourse, from the emergence in the classical period until the modern disruption. In this regard, I have shown different junctures and rationalities among ulama regarding usurpation in Islamic history.

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<sup>7</sup> Hallaq, *Reforming Modernity*, 4, 7.



In particular, my argument about the strong influence of tradition and the intrusion of western political philosophy is different from the existing contentions. My study revisits two existing frameworks, namely: *epistemic replication*, which argue that pre-modern Islamic discourse is the only constitutive factor behind the ulama's discourse, and *epistemic rupture*, which contend that modern western liberal ideas and material context are the most defining factor that shape the discourses of the ulama and cause a break from tradition. I argue that tradition and modernity are intertwining each other in shaping the discourse of ulama.

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## BIOGRAPHICAL SKETCH

Muhamad Rofiq Muzakkir was born in the village of Kandis, South Sumatera, Indonesia, on September 10, 1986. He obtained his middle school in a *Madrasah Mu'allimin Muhammadiyah* in Yogyakarta, Indonesia, and then pursued undergraduate study in Islamic Law at al-Azhar University of Egypt. His master's degree was completed in the Department of Middle Eastern Studies, Gadjah Mada University, Indonesia, in 2011. With scholarship from Fulbright-DIKTI, he started his doctoral studies in the Department of Religious Studies, Arizona State University in 2017 and finished in 2022. Prior to joining ASU, he taught as a lecturer at Universitas Muhammadiyah Yogyakarta, Department of International Relations.