FROM *SHARĪ'A 'AYNIYYA* TO *SHARĪ'A ḤUDŪDIYYA:*
Shahrour's Interpretation on Qur'anic Legal Verses

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Abstract

*This article elaborates a new paradigm in the interpretation of Qur'anic legal verses conducted by a Syrian thinker, Mohammad Shahrour. This study shows that, according to Shahrour, Islamic jurisprudence is not "*ayniyya*", but "*ḥudūdiyya*" since for him, all legal rules carried by the verses represent the limits of Allah which people can behave.* Sharī'a ḥudūdiyya *proves that Shahrour's approach to the Qur'anic legal verses can be characterized as an open-ended process of socio-political and moral codes. Still holding on to the tool of textual analysis but combining it with a new perspective,* ḥudūdiyya, *Shahrour manages to be faithful to the text and at the same time, compatible with the ideas and values of modernity and humanism. Elaborated by other theories from other disciplines, especially mathematics and physics, Shahrour provides six types of limits which encapsulate all* Sharī'a *cases equipped with their characteristics, differentiations and implementations.*

*[Artikel ini menjelaskan paradigma baru dalam menafsirkan ayat-ayat hukum dalam al-Qur'an seperti diperkenalkan oleh seorang pemikir berkebangsaan Syria, Mohammad Shahrour. Artikel ini memperlihatkan bahwa, menurut Shahrour, ayat-ayat hukum dalam al-Qur'an itu tidak bersifat "*ayniyya*", namun "*ḥudūdiyya*" karena berfungsi untuk membatasi.* Sharī'a ḥudūdiyya *yang diperkenalkan Shahrour menjelaskan bahwa pendekatan terhadap ayat-ayat hukum dalam al-Qur'an bersifat*

terbuka. Dengan tetap berpijak pada pendekatan tekstual terhadap al-Qur'an sembari memperhatikan pandangan baru, ḥudūdiyya, *Shahrour berhasil mempertemukan teks al-Qur'an dengan ide-ide dan norma-norma modernitas dan humanisme. Dijelaskan melalui teori-teori yang berkembang di disiplin ilmu lain, utamanya matematika dan fisika, Shahrour memperkenalkan enam tipe batasan* Sharī'a.]

A. Introduction

Twentieth-century Muslim thinkers, according to David Johnston, have been characterized by a paradigm shift, especially where Islamic legal theory (*uṣūl fiqh*) is concerned, from the classical orthodox position based on consensus (*ijmā'*) and analogical reasoning (*qiyās*) to a position based on reason as a tool to discover the universal ideas behind the divine texts.[1] In its application as a fresh tool to interpret the Qur'an, this new paradigm is often combined with the scholars' particular backgrounds in the social or natural sciences.

The emergence of this new paradigm, together with the absence of a single vision to the Qur'an and its exegetical method among orthodox Muslims, has led some modern Muslim thinkers to establish their own methods to enable the Islamic community to see modernity as an opportunity to create the egalitarian society evoked by the Qur'an. Mohammad Shahrour[2] is such a modern Muslim thinker. He is a Syrian engineer who made a unique contribution to the reinterpretation of the Qur'an and the Sunna in particular and to law as a comprehensive system in general. According to him, both the traditionalist who hold tightly to the literal meaning of the Qur'an and consider all Islamic heritage (*turāth*) as an absolute truth suitable for all believers in any time, and the secularist modernists who refuse all kind of Islamic heritage including the Qur'an, have failed to provide solutions for the dilemma of modernity faced by

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[1] David Johnston, "A Turn in the Epistemology and Hermeneutics of Twentieth Century Usul al-Fiqh", *Islamic Law and Society*, Vol. 2 No. 2, 2004, p. 234.

[2] Among many different of his name, this spelling is preferred on the basis that Shahrour himself transliterates his name in his way to non-Arabic audiences. However, other versions are maintained as they appear in cited material.

contemporary Muslims.[3]

This failure then led Shahrour to propose his own method as a third alternative by returning to the "*al-Tanzīl*" [4] (the Qur'an). Like other *mufassirs*, Shahrour strongly emphasizes that the Qur'an is God's speech revealed to the prophet but addressed to people of every generation. It is a "remembrance" (*dhikr*) which God has taken upon himself to preserve. It means that every generation may interpret the Qur'an in a manner that makes it relevant to its circumstances and should not be bound by the interpretations of previous generations. What Shahrour desires is to understand the Qur'an "as if the Prophet has just died and had informed us of this book" (*ka'anna al-nabi tuwuffiya ḥadīthan wa ballaghana hādha'l-kitāb*).[5]

This also means Shahrour takes a position against the monopoly on Qur'anic interpretation by traditionalists (*salāf*), which he regards as being corrupted by the "inherited ambiguous propositions" (*al-musallamāt al-mawrūtha al-mushkila*).[6] Shahrour's position against the "sacralization" of previous religious knowledge, as Marcotte says,[7] is supported by his proposition that the veracity (*sidq*) of the divine message is more important than the authentication (*taṣdīq*) of sources based on human authority no matter who the author is.[8] His rejection of the traditional interpretation is due to the argument that it prevents anyone from drawing on techniques, methods, and approaches from non-Islamic sources that may bring a new insight to understanding the text, such as critical or hermeneutical approaches. [9]

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[3] Mohammad Shahrour, *Al-Kitāb wa'l-Qur'ān: Qirā'a Mu'aṣira* (Damascus: Al-Ahālī Ii al-Ṭaibā'a wa al-Nashr wa al-Tawzī',1990), p. 44.

[4] This is typically his terminology to underline "the original text of God's revelation to the Prophet…" It is "a divine text whereas everything else is part of the inherited legacy". This is to ensure that all interpretations are no more than human understanding of his divine text. See Shahrour, "The Divine Text and Pluralism in Muslim Societies, in www.19.org/english/articles/shahrour1.htm, p. 2.

[5] Shahrour, *Al-Kitāb wa'l-Qur'ān*, p. 44.

[6] *Ibid.*, p. 47.

[7] Roxanne D. Marcotte, "Sahrur, the Status of Women, and Polygamy in Islam", *Oriente Moderno*, 20, 2001, p. 319.

[8] Mohammad Shahrour, *Dirāsāt Islāmiyya Mu'aṣira fi al-Dawla wa'l-Mujtamā'* (Damascus: Al-Ahālī al-Ṭibā'a wa al-Nashr wa al-Tawzī', 1994), p. 37.

[9] Shahrour, *Al-Kitāb wa'l-Qur'ān*, pp. 31-2.

Indeed his effort to combine this linguistic concept with the natural sciences, especially mathematics and physics, gave a unique contribution to the reinterpretation of the Qur'an; that is what Hallaq has called a rationalistic perspective. It is rationalistic in the sense that it uses independent reason (*'aql*), with the main aim of proposing a modern epistemological system.[10]

The term *sharī'a ḥudūdiyya* itself is actually adopted from the word "*ḥudūd*" (limits), the plural form of "*ḥadd*" found in the Qur'an in *al-Nisā';* 13-14, dealing with inheritance, in which it appears in different wordings; "*tilka ḥudūdullāh*" in al-Nisā'; 13 and "*wa man yata'adda ḥudūdahu*" in al-Nisā'; 14. Based on the fact that the word "*ḥudūd*" always appears in its plural form, Shahrour concludes that there is no single decree in Islamic law. It means there are many possibilities for the deduction of rules from a particular legal verse on a specific topic. Furthermore, Qur'anic verses only establish upper and lower limits (*ḥudūd*) for human legal activities. Humans have a right to establish the appropriate rule within these limits based on their own circumstances. That's why he considered the divine laws brought by Muhammad as *sharī'a ḥudūdiyya* (legislation based on the limits of Allah), as opposed to *sharī'a 'ayniyya* (legislation based on literal meaning of verses), which was the character of the previous divine laws brought by other messengers. [11]

B. Mohammad Shahrour and the Problem of Epistemology of Knowledge

Mohammad Shahrour b. Dayb was born on April 11, 1938 in the Salihiyya quarter of Damascus. He is the fifth child of a dyer who had preferred to send him to state primary and secondary schools, rather than to the local *kuttāb* and *madrasah* in al-Midan, a southern suburb of Damascus.[12] This account seems contradictory to Shahrour's biographical sketch found in the last page of the first edition of his first book, *Al-Kitāb*

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[10] Wael B.Hallaq, *A History of Islamic Legal Theories* (Cambridge: Cambridge University Press, 1997), p. 248.

[11] Shahrour, *Al-Kitāb wa'l-Qur'ān*, p. 579.

[12] This data is based on the interview conducted by Andreas Christmann with Shahrour himself on May 2001. see Andreas Christmann, "The Form is Permanent, but the Content Moves The Qur'anic Text and its Interpretation(s) in Mohammad Shahrour's 'Al-Kitab wa'l Qur'an'", *Die Welt des Islams*, No. 43, 2003, p. 145.

wa'l-Qur'ān: Qirā'a Mu'aṣira, because it is mentioned there that he studied at the Madrasa 'Abd al-Rahman al-Kawakibi for his *ibtidā'iyya* (primary), *i'dādiyya* (preparatory), and *thanāwiyya* (secondary) degrees.[13] In March 1957 he was sent to Saratow, near Moscow, at the age of nineteen, to study civil engineering. It was the beginning of a process of familiarization with Marxist ideas. He was challenged by Marxist dialectics, although he rejects being called a Marxist.[14]

Trained as a specialist in civil engineering, he received his Diploma in Civil Engineering in 1964 and then returned to Syria to teach at the University of Damascus in 1967. He also performed research at Imperial College London. The "June War" between Syria and Israel in that year and the consequent break in diplomatic relations between Britain and Syria ended his research.[15] One year later, in 1968, he was sent again to study abroad at al-Jāmi'a al-Qawmiyya al-Irlandiya (Irlandia National University) in Dublin for his Master's and Doctoral's degrees in soil mechanics and foundation engineering. Upon his return to Syria in 1972, he became a Professor in the faculty of Civil Engineering (*al-handasa al-madaniyya*) at the University of Damascus, from which he retired in 1999. While teaching at the university, in the same year, Shahrour, together with his colleagues, established a consultancy bureau in his field, namely Dār al-Istishārāt al-Handasiyya in Damascus. From 1982-1983 he was sent by his institution to Saudi Arabia as an expert on engineering for another consultancy bureau.[16]

Indeed, Shahrour never acquired a formal qualification or certificate in the Islamic sciences. Consequently, his knowledge in the diverse disciplines of the Islamic sciences was obtained as an autodidact.[17] This conclusion can be drawn from reports in his biographical notes about the process behind the publication of his first book, *Al-Kitāb wa'l-Qur'ān: Qirā'a Mu'aṣira*. In his introduction to the book, Shahrour mentions that

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[13] Shahrour, *Al-Kitāb wa'l-Qur'ān*, the last page.

[14] Peter Clark, "The Shahrour Phenomenon: A Liberal Islamic Voice from Syria", *Islam and Christian-Muslim Relations*, Vol. 7, No. 3, 1996, p. 336.

[15] Charles Kurzman (ed.), *Islam Liberal: A Sourcebook* (New York & London: Oxford University Press, 1998), p. 138.

[16] Shahrour, *Al-Kitāb wa'l-Qur'ān*, the last page.

[17] Christmann, "The Form is Permanent, but the Content Moves", p. 145.

he spent all of twenty years writing the book, divided into three phases.[18] In the first phase (1970-1980) he began to study the Islamic heritage (*turāth*), hoping to find a solution to the political and intellectual crisis. To him, it was clear that after the death of the Prophet, religious teachings had been manipulated by the wielders of authority for political demands related to protecting power.[19]

On the other hand, contemporary Islamic thought faced basic problems. Besides lacking an objective approach, especially in Qur'anic studies, it was also shackled by the traditions of classical literatures. There are no 'creative interaction' with other (non Muslim) philosophies because of the fear that these would taint Islamic teachings. Consequently, the religious interpretations recorded in works of *fiqh* or *tafsir* were treated as primary sources and were regarded as sufficient to deal with any problem faced by Muslims, especially on the status of women in Islam. Women are viewed one way in the Qur'an and another in the *fiqh* and *tafsir* books. The 'Gate of '*ijtihād*' was closed and the character of *fiqh* had henceforth been conservative, formalistic, obsessed with rules, out of touch with contemporary thought, and concerned with the minutiae of human relations rather than with wider social and political morality.[20] Finally, Shahrour was disappointed with what he called the *madrasiyya* mentality, which is expressed in the ancient school traditions (the Ash'arite, Mu'tazilite, and five schools of law), that block the way to real solutions to the problems of Muslims. As a result, he refused to follow a strict form of *salafiyya* Islam as was the trend of the time.

The second phase (1980-1986) was indeed the most important stage in the development of Shahrour's ideas since in this period he met Ja'far Dakk Albab, a Damascene Professor of Literary Studies. They were companions when both of them studied in Moscow in different departments, from 1958 till 1964. Albab introduced Shahrour to linguistics theories developed by 'Abd al-Qahir al Jurjani, Al-Farra', Abu 'Ali al-Farisi and Ibn Jinni, which then formed the basis for his approach to reinterpreting Qur'anic terminologies, such as *al-Kitāb, al-Qur'ān, al-Furqān, al-Dhikr, umm al-Kitāb, lauḥ maḥfūz, and al-imām al-mubīn*. Together

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[18] More detail in his *Al-Kitāb wa'l-Qur'ān*, pp. 46-8.

[19] "*al-Uṣūliyya al-Islāmiyya… ila Ayna?*", in www.shahrour.org.

[20] Shahrour, *Al-Kitāb wa'l-Qur'ān*, p. 586-8; and his *Dirāsāt Islāmiyya Mu'āṣira*, pp. 224-5.

with Albab, Shahrour elaborated on important issues from the Qur'an until 1986. The third phase (1986-1990) was the time for systematizing the ideas and preparing for publication.

As a newcomer to the field of Islamic studies, Shahrour's main medium for spreading his ideas was through publications. His first book *Al-Kitāb wa'l-Qur'ān: Qirā'a Mu'āṣira* was published in 1990. This 822-page book is divided into two large sections; the first section is the theoretical part containing chapters explaining his elaboration of basic principles and methods for interpreting the Qur'an, while the second part is more practical, containing a number of chapters discussing the application of the approach mentioned earlier in the book. It is clear from the book that, for Shahrour, the source of human knowledge is objective reality provided by the world around men (*anna maṣdar al-ma'rifa al-insāniyya huwa al-'ālam al-māddy khārij al-dhāt al-insāniyya*).[21] It means that the truthfulness of opinions is not determined by human desires, but by their conformity to objective reality. Furthermore, based on *al-Naḥl*: 78, contemporary Islamic philosophy should be grounded on rationality as a result of empirical inquiries in order to establish objective knowledge. Therefore, he denied all intuitive knowledge attributed to a possessor of illumination (*ahl al-kashf*).[22]

Nevertheless, Shahrour also believes that both visible and invisible worlds (*'ālam al-shahāda wa 'ālam al-ghayb*) are real. While the visible world includes all material perceptible by human senses and reason as well, the invisible world, although also constituting a reality, has been imperceptible up to this time because of the limitation of human reason. However, Shahrour optimistically suggests that because of the development of human reason, the invisible world will be uncovered. That is to say that Shahrour considers the matter as primary to the extent that it provides the basis for everything that exists. Because of that, he insists that human reason is able to independently discover the truth and, consequently, that there is no contradiction between the Qur'an and philosophy as basis of knowledge.[23]

Being one of the important elements of his thought, in the

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[21] Shahrour, *Al-Kitāb wa'l-Qur'ān*, p. 42.

[22] *Ibid.*, p. 43.

[23] *Ibid.*

discussion of *qawā'id al-ta'wīl*, Shahrour draws explicitly two principles of *ta'wīl*.[24] Firstly, revelation does not contradict reason, and secondly, revelation does not contradict reality. Therefore, the main aim of *ta'wīl* is to achieve perfect harmony between human sensory perception of the world and the content of the Qur'an. Here, he proposes his concept of "scientific background" (*al-arḍiyya al-ma'rifiyya*) as a prerequisite to performing *ta'wīl*.[25] Seventh-century Arabs had a limited conception of the principles determining the natural world, but the history of scientific discovery has diminished what was unknown.[26] These scientific discoveries inevitably provide much help in interpreting particular passages in the Qur'an.[27]

Apart from that, Shahrour's stress on natural law is evident when he dedicates the second chapter of his *Al-Kitāb wa'l-Qur'ān*, following the elaboration of his linguistics concept, to a discussion of the dialectic of nature and human beings (*jadal al-kawn wa'l-insān*). For him, three are at least three principles at work in all kind of matters. Firstly, there is inner contradiction in every single phenomenon in the world. Secondly, all things in the world are united and linked to one another. Thirdly, everything is an ongoing process and nothing is able to withstand eternally

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[24] Unlike the Sunni mainstream view, which considers *ta'wil* as a metaphorical interpretation that displays the visible meaning (*al-ẓahir*), in contrast to *tafsīr*, Shahrour defines it as an attempt to harmonize the absolute nature of the Qur'anic verses with the relativity of human understanding.

[25] In order to understand this concept, one should begin with Shahrour's interpretation of "who are firmly grounded in knowledge" (*al-rāsikhūn fi'l-'ilm*) in *Ali Imrān*: 7. First of all, following Ibn Qutayba's Qur'anic reading, he had preferred to pause in his reading after the word "*al-rāsikhūn fi'l-'ilm*", rather than before it. Second, instead of referring to the jurists (*fuqahā'*) alone, he understands them in broader sense; they are collection of all kinds of intellectuals including philosophers, scientists, historians, physicists, each with their own scientific premises. This kind of interpretation, for him, is supported by another verse, *al-'Ankabūt*: 49, in which he interpreted "*fi ṣudūr alladhīna ūtu' al-'ilm*" as 'to the most eminent who are given knowledge'. Therefore, he includes al-Biruni, al-Hasan ibn al-Haytham, Ibn Rushd, Isaac Newton, Einstein, Charles Darwin, Kant, and Hegel. Shahrour, *Al-Kitāb wa'l-Qur'ān*, p. 192-193.

[26] *Ibid.*, p. 44.

[27] For example, Shahrour argues that modern theories of the creation of the world and the existence of hydrogen are anticipated in the first three verses of *al-Fajr*. *Hūd*: 7, then, explains that hydrogen is a compound that may become the visible object known as water. *Ibid.*, p. 235.

except the continuous process of appearing and disappearing itself.[28]

It is all these kinds of approaches that led al-Shawwaf to conclude in his *Tahāfut al-Qirā'a Mu'āṣira* that the influence of Marxist thought in Shahrour's thought is undeniable.[29] This became more obvious from his educational background, which has already been discussed earlier. It is clear from his statement that he was fascinated by the Marxist dialectical approach and was challenged by Marxist dialectics. Furthermore, he also admitted that he owed much to Hegel and Alfred Whitehead as well.[30]

According to al-Shawwaf, materialism is an intrinsic characteristic emerging from Shahrour's explanations. This is implied by his preference for the use of the indefinite form of "*qirā'a*" in the title of his book "*Al-Kitāb wa'l-Qur'ān: Qirā'a Mu'āṣira*", which indicates that Shahrour considers his interpretation of the Qur'an as one of numerous interpretations developed by previous generations and further interpretations that will be introduced by generations after him. Just as the previous interpretations represented the reality and objective conditions of the community at that time, his interpretation is representing the problems of the current generation.[31] That is to say that, according to Shahrour, a thought is a reflection of reality.[32]

In other words, according to al-Shawwaf, Shahrour considers reality as the source of thinking rather than the destination of thinking. Reality is the foundation of understanding Islam and not *vice versa*. It is the Qur'an which should be interpreted in accordance with reality and not reality that should be harmonized with Qur'anic teachings.[33] It should be emphasized here that, according to al-Shawwaf, Shahrour utilizes the Marxist point of view that the laws of nature and society are objective, and it is impossible to change them arbitrarily. So it is necessary to act in accordance with objective laws to achieve a goal. "He who tries to go

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[28] *Ibid.*, pp. 119-120.

[29] Munir Muhammad Tahir al-Shawwaf, *Tahāfut al- Qirā'a Mu'āṣira* (Cyprus: Al-Shawwaf, 1993), pp. 29-41.

[30] Clark, "The Shahrur Phenomenon", p. 337; Kurzman (ed.), *Islam Liberal*, p. 138.

[31] al-Shawwaf, *Tahāfut al- Qirā'a Mu'āṣira*, p. 30.

[32] Shahrour, *Al-Kitāb wa'l-Qur'ān*, p. 220.

[33] al-Shawwaf, *Tahāfut al- Qirā'a Mu'āṣira*, p. 30.

against them inevitably meets with failure".[34]

To conclude, Shahrour's inclination toward objectivist theory is undisputable and led him to give the highest appreciation to human reason.[35] This admiration equally directed him to the doctrine that nothing is good or bad but thinking makes it so.[36] Another apparent character of his way of thinking is his endorsement of empiricism. By this view he believes that all knowledge is mainly based on or derived from experience. It means that the truthfulness of opinions is not determined by human desires based on superstition and obscurantism but by their conformity to objective reality. According to him, contemporary Islamic philosophy should be grounded on rationality as a result of empirical inquiries in order to establish objective knowledge. However, it doesn't necessarily mean that Shahrour completely rejects rationalist theory. He clearly says that the mind may apprehend some truths directly without requiring the medium of the senses, but this should be verified by reality in order to acquire the ultimate truth.[37] It seems that he attempts to combine rationalism on one hand and empiricism on the other. On this basis, Eickelmann in one of his articles, calls Shahrour the 'Kant of the Arab World.[38]

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[34] Spirkin, *The Basic Principles of Dialectical and Historical Materialism* (Moscow: Progress Publishers, 1971), p. 47.

[35] Such admiration is more prominently found in his second book, such as in his statement that we are obliged to use Allah's gifts of reflection (*fikr*) and power of reasoning (*'aql*), and that these gifts should be given total freedom in processes of analysis rather than memorization. Shahrour, *Dirāsāt Islāmiyya Mu'āṣira*, pp. 330, 319.

[36] This can obviously be seen in Shahrour's rejection of the traditionalists' understanding of two principles in Islamic legal theories; they are "*saddu al-dharā'i'* (blocking the means) and "*dar'u al-mafāsid ahammu min jalbi' al-manāfi'* (prevention of corruption is more important than realizing welfare). The traditionalists' concept of the former is inapplicable since it is based on estimations, not on actual conditions and real evidences (*al-dalā'il al-māddiyya al-burhāniyya*). Just like the former, the latter principle is no longer relevant because, for him, those things considered as good resulting in welfare (*maṣāliḥ*) or bad resulting in corruption (*mafāsid*) are completely relative, and also need factual evidences. Shahrour gives as an example the prohibition for Muslim students to study in non-Muslim countries because of fearfulness of being intoxicated with practices which are unlawful in Islam. Shahrour, *Al-Kitāb wa'l-Qur'ān*, pp. 583-585.

[37] Shahrour, *Al-Kitāb wa'l-Qur'ān*, p. 42.

[38] Eickelmann, Dale F., "Islamic Religious Commentary and Lesson Circle: Is There a Copernican Revolution?" in G.W. Most (ed.), *Commentaries-Kommentare*

C. Prophethood and Messengerhood Verses: Another Concept of Al-Qur'an

The most striking of Shahrour's concepts is that he considers the term "*al-Qur'ān*" to be different from "*al-Kitāb*" (the Book) and other terms which are conventionally understood as synonyms of "al-Qur'an" such as "*al-Kitāb*", "*al-Furqān*", and "*al-Dhikr*". According to him, they have their own meanings. What is conventionally called *al-Muṣḥaf al-Uthmany* has been named by him as "*al-Kitāb*", which then became a general term including the whole content of the written copy (*al-muṣḥaf*), beginning with *al-Fātiḥa* and ending with *al-Nās*. "*Al-Kitāb*" (in its definite form) is composed of many different sections containing many different subjects revealed by God which are classified in many *kitābs* (in its indefinite form), such as a book about the creation, a book about the Last Day, a book about religious observances (*al-'ibādāt*), and a book about social transactions (*al-mu'āmalāt*). Each of these books is subdivided into other books, which are then subdivided into others. On the other hand, "*al-Qur'ān*" is used by Shahrour as a specific term to identify one part of *al-Kitāb*. God's mention of *al-Qur'ān* and *al-Kitāb* in the one linguistic unit separated by a conjunction, for example, in *al-Ḥijr*: 1 shows that both of them are different. Finally, Shahrour concludes that, in the Arabic language, the conjunction, besides functioning to link two or more different things, is also used to indicate that the second thing is less general than the first.[39]

Two other names for *al-Qur'ān*, *al-Furqān* and *al-Dhikr*, are given new meanings that depart from conventional understanding. "*Al-Furqān*", according to Shahrour, is distinguished on the grounds that it only comprises ethical teachings that standardize the minimal moral values a man should comply with in every day life. For him these teachings are equivalent to the Ten Commandments for the people of Musa and 'Isa[40], which are separate from their holy scriptures. Moreover, based

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(Gottingen: Vandenhoeck&Ruprecht, 1999), p. 140.

[39] Shahrour, *Al-Kitāb wa'l-Qur'ān*, p. 57.

[40] This is based on *al-An'ām*: 151-153 which, according to him, speaks of the ten moral teachings a Muslim should perform in daily life; they are: do not make associates of Allah, be of benefit to your parents, do not kill your children, do not engage in immoral acts, do not kill others without lawful reason, do not expend the property of orphans unlawfully, do not falsify weights in transactions, speak justly, pay your

on *al-Baqara*: 53, *Āli Imrān*: 3-4, and *al-Anbiyā*; 48, he concludes that *al-Furqān* constitutes a central character of all divine religions and is a basic reference standard from which they might initiate discussions.[41] "*Al-Dhikr*", on the other hand, is a specific term relating to Qur'anic revelation indicating an attribute of the Qur'an as a phonetic or 'uttered' form of *al-Kitāb*. Since the objective laws that structure the existence of nature and human beings comprised by the Qur'an are, in principle, completely outside human senses, Allah transformed these into Arabic, a language spoken and understood by them. Here, again he emphasizes his endorsement of the Mu'tazilite view on the creation of the Qur'an.[42]

Shahrour begins to elaborate his concept by dividing all verses of *al-Kitāb* into two big groups; prophethood (*al-nubuwwa*) and messengerhood (*al-risāla*), based on the status attached to the Prophet (see picture 1). While his prophethood represents the eternal and absolute side of Allah's revelation, his messengerhood represents its temporal and relative side. Again, this division is influenced by an epistemological framework that admits the objective reality (*al-ḥaqīqa al-mawḍū'iyya*) which is outside human consciousness. The sun, the death, the Last Day, and the Day of Resurrection are an objective reality; their existence is a truth (*ḥaqq*), there is no doubt about them. People can understand this reality only by objective scientific exploration applying scientific principles such as philosophy, cosmology, physics, chemistry, biology, and other natural sciences. On the other hand, there is the subjective reality (*al-ḥaqīqa al-dhātiyya*) in which people can make a choice to do or not to do a particular activity.[43] For example men can make a choice to perform or omit to pray, fast, perform the pilgrimage, to be of benefit to parents, and else. Broadly speaking, the objective reality has to do with truth and falsity (*ḥaqq wa bāṭil*). It is *al-Qur'ān*, whereas the subjective reality of lawful and unlawful (*ḥalāl wa ḥarām*);[44] is *umm al-Kitāb*. (See Figure 1)

Shahrour then goes on to the second level of his division of *al-Kitāb* based on the ambiguity and un-ambiguity of the verses. This level is actually the continuation of the first division. First of all, the

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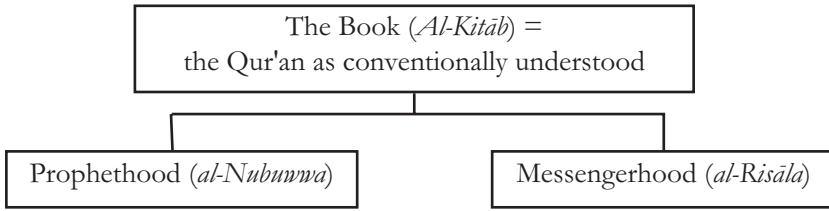
obligations, and follow the straight path. *Ibid.*, p. 65.

[41] *Ibid.*, p. 66.

[42] *Ibid.*, pp. 62-63.

[43] *Ibid.*, pp. 103-105.

[44] *Ibid.*,p. 55.

Figure 1: The Division of Qur'anic Verses ala Shahrour

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│          The Book (Al-Kitāb) =           │
│   the Qur'an as conventionally understood │
└─────────────────────────────────────────┘
           │                    │
┌──────────────────────┐  ┌──────────────────────────┐
│ Prophethood (al-Nubuwwa) │  │ Messengerhood (al-Risāla) │
└──────────────────────┘  └──────────────────────────┘
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Note: This picture is simplified version of the chart presented by Shahrour at the beginning of his first book.

Prophethood verses are subdivided into two groups; the ambiguous verses (*'ayāt mutashābihāt*) and the verses that are neither definite nor ambiguous (*'ayāt lā muḥkamāt wa lā mutashābihāt*). The ambiguous verses deal with objective realities; most pf which are outside the human cognitive state.[45] These ambiguous verses are characterized by their form as reportage (*khabariyya*) as their main character; they do not deal with commands and prohibitions, but talk about heaven and hell, the resurrection and reckoning, general laws of nature, and history.[46] The second group, *ayāt lā muḥkamāt wa lā mutashābihāt* is derived from his interpretation of the word "*ukharu*" in *Ali 'Imrān*: 7. The indefinite form of this word gives rise to the group, which adds a third category to the conventional division between *ayāt mutashābihāt* and *ayāt muḥkamāt*[47]. For Shahrour, it is this category intended by "*Tafsīl al-Kitāb*" (the elucidation of the Book) in *Yūnus*: 37, since these verses serve to explain *al-Kitāb*. Among the verses of *Tafsīl al-Kitāb* are *Ali 'Imrān*: 7, *Hūd* 1, and *Fuṣṣilāt*: 3. While *Ali 'Imrān*: 7, according to Shahrour, justifies the above-mentioned three groups, *Yūnus*: 37 confirms that the *Tafsīl al-Kitāb* is also revealed by Allah and does not derived from his Prophet.[48]

Following this, based on *al-Ḥijr*: 87, Shahrour divides the ambiguous verses (*ayāt mutashābihāt*) into two groups: the glorious al-Qur'an (*al-Qur'ān al-'Aẓīm*) and the Seven oft-Repeated (*al-Sab' al-Mathāni*). It becomes clear then that, unlike the traditionalists, Shahrour considers *al-Qur'ān* as a part

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[45] *Ibid.*, p. 56.
[46] Shahrour, *Dirāsāt Islāmiyya Mu'āṣira*, p. 184.
[47] Shahrour, *Al-Kitāb wa'l-Qur'ān*, p. 55.
[48] *Ibid.*, p. 121.

of *al-Kitāb*. In relation to another type called the definite verses (*'ayāt muḥkamāt*), he notes that *al-Qur'ān* functions as their preserver (*ḥāfiẓ*), supervisor (*raqīb*), and justifier (*muṣaddiq*) since they are susceptible to falsification and imitation; therefore, the ambiguous and definite verses are not separated in *al-Kitāb*.[49] Shahrour specifies smaller units of *al-Qur'ān* into five: the truth (*al-ḥaqq*), general laws that coordinate existence (*al-qawānīn al-'āmma al-nāẓima li'l-wujūd*), laws of history (*qawānīn al-tārīkh*), laws of nature's particles (*qawānīn juz'iyyāt al-ṭabi'a*), and organization of nature's phenomena (*taṣrīf aḥdāth al-ṭabi'a*).[50]

Since *al-Qur'ān* contains ambiguous verses, it represents objective realities outside human consciousness; therefore *al-ḥaqq wa'l-bāṭil* prevails. The verses are absolute, general, eternal, and unaltered since the creation of the world; therefore they are stored in the *lauḥ mahfūẓ*, and revealed to the Prophet after being transmitted into Arabic. This position, like Christmann says, shows that Shahrour wants to stand between the Ash'arite and Mu'tazilite schools by proposing that there is only one part of the whole *al-Kitāb* which represents the *lauḥ mahfūẓ*. On the one hand, unlike the Ash'arites who believe that all of the Qur'anic verses are uncreated, absolute, eternal, and stored in the *lauḥ mahfūẓ*, since they are his attributes,[51] he believes that it is only the verses in the part designated as *al-Qur'ān* which human beings are unable to fully understand in rational terms.[52] On the other hand, at the same time, this view denies the Mu'tazilite's claim for the created-ness of all Qur'anic verses (see Figure 2).

Moreover, the revelation of verses of al-Qur'an was not historically conditioned and neither was it requested;[53] therefore, it is impossible to

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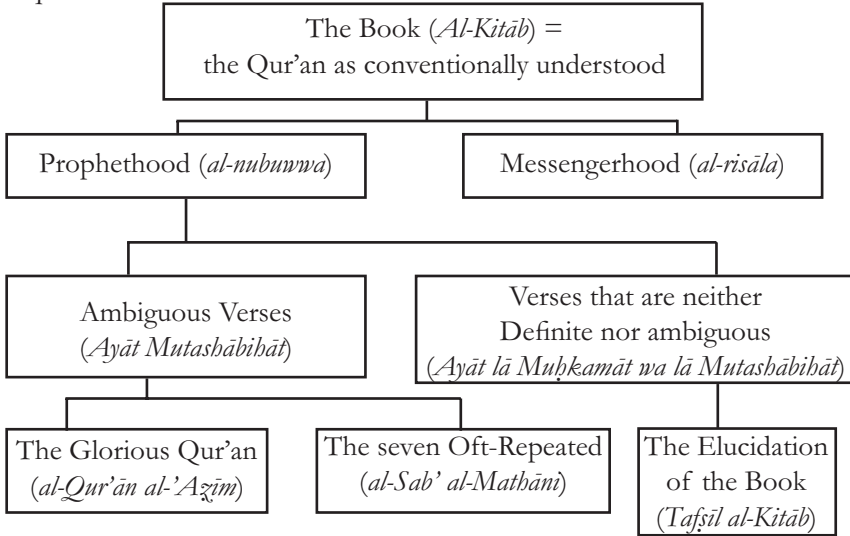
[49] *Ibid.*, pp. 116, 160.

[50] *Ibid.*, p. 17.

[51] Abu Zayd, Nasr Hamid, "Divine Attributes in the Qur'an" in John Cooper (ed.), *Islam and Modernity: Muslim Intellectual Respond* (New York: I.B. Tauris, 1998), p. 194.

[52] Christmann, "The Form is Permanent, but the Content Moves", p. 163.

[53] Shahrour considers two types of Qur'anic revelation. The first type is the revelation of *al-Qur'ān*, which contains the ambiguous verses of Muhammad's prophethood. The second is the revelation of the *umm al-Kitāb*, which contains the definite verses of Muhammad's messengerhood, together with the *Tafṣīl al-Kitāb* and *al-Sab' al-Mathāni*. Whereas the first type is revealed from the *lauḥ mahfūẓ* transformed into Arabic and then transmitted to the Prophet, the second is revealed from God to Muhammad's heart without any intermediary.

Figure 2: The Division of Qur'anic Verses based on their Equivocalness

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┌────────────────────────────────────────┐
│          The Book (Al-Kitāb) =          │
│    the Qur'an as conventionally understood │
└────────────────────────────────────────┘
        │
   ┌────┴────────────────────┐
┌──────────────────────┐   ┌──────────────────────────┐
│ Prophethood (al-nubuwwa) │ │ Messengerhood (al-risāla) │
└──────────────────────┘   └──────────────────────────┘
        │
┌─────────────────────┐   ┌──────────────────────────────────────┐
│  Ambiguous Verses   │   │      Verses that are neither          │
│ (Ayāt Mutashābihāt) │   │      Definite nor ambiguous           │
│                     │   │ (Ayāt lā Muḥkamāt wa lā Mutashābihāt) │
└─────────────────────┘   └──────────────────────────────────────┘
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| The Glorious Qur'an (al-Qur'ān al-'Aẓīm) | The seven Oft-Repeated (al-Sab' al-Mathāni) | The Elucidation of the Book (Tafṣīl al-Kitāb) |

Note: This figure is a simplified version of the chart presented by Shahrour at the beginning of his first book.

establish their *asbāb al-nuzūl* and no possibility of identifying whether they are part of those that are abrogating (*nāsikh*) or abrogated (*mansūkh*).[54] That is to say that such a dichotomy between universality and historicity is also accentuated in Shahrour's method to redefine revelation. Besides that, Shahrour also wants to say that, with those kinds of attributes, the verses of *al-Qur'ān* guarantee that all human beings from different historical and intellectual backgrounds will be able to link with the objective truth through applying *ta'wīl*.[55] Therefore, instead of defining it as allegorical interpretation which ignores the apparent meaning (*al-ẓāhir*), he regards it as a process of *tashābuh*; it is an attempt to harmonize the absolute nature of the Qur'anic verses with the relative understandings of human beings.[56]

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[54] Shahrour, *Al-Kitāb wa'l-Qur'ān*, p. 154.

[55] It is in this point Shahrour articulates the fundamental aspect of the *i'jāz* of *al-Qur'ān*. Instead of regarding *al-i'jāz* as mere admiration for its linguistic and rhetorical style as well as its intellectual-moral aspects, he defines it as the Qur'an's potential to allow a permanent assimilation (*al-tashābuh*) between the temporal and eternal, relative and total, partial and absolute. *Ibid*, p. 60.

[56] *Ibid.*, p. 187.

The next level of Shahrour's concept of *al-Kitāb* is his elaboration of the messengerhood verses. Since they deal with guidance for human attitudes and specific rules of social behaviour (*qawā'id al-sulūk al-insāni*), the group contains only definite verses (*ayāt muḥkamāt*). These verses comprise legal prescriptions on religious services (*al-ibādāt*), social transactions (*al-mu'āmalāt*), ethical values (*al-akhlāq*), and other religious instructions. This is what Shahrour calls the *umm al-Kitāb*[57] which includes six types of verses as follow: 1) the limits of Allah, including the religious services (*al-ḥudūd bi mā fīha al-'ibādāt*), 2) the general and specific guidance: the commandments (*al-furqān al-'āmm wa al-khās: al-wasaya*), 3) temporary legal prescriptions (*aḥkām marḥaliyya*), 4) conditional legal prescriptions (*aḥkām ẓarfiyya*), 5) general instructions, but not legislation (*ta'līmāt 'āmma, laysat tashrī'at*), and 6) specific instructions, but not legislation (*ta'līmāt khāṣṣa, laysat tashrī'āt*).[58] (see Figure 3)

According to Shahrour, unlike those of *al-Qur'ān*, the verses of the *umm al-Kitāb* are not revealed from the *lauḥ mahfūẓ,* but directly from Allah in response to the historical context in Mecca and Medina; therefore, their legal prescriptions are temporal. He insists the *muḥkamāt* verses in this part are not included in the eternally objective sources of existence (*al-ḥaqq*) since they are not absolute and general, but relative and particular. Here, Shahrour does support the Mu'tazilites' position that their verbal formulation and meaning are 'created' in the light of the historical context of revelation.[59]

It is very explicit in Shahrour's statements that the verses of *umm al-kitāb* are subject to alteration (*tabdīl*) and to independent reasoning (*ijtihād*) in order to be understood. Therefore, the exploration of the occasions of revelations (*asbāb al-nuzūl*) and the verses which are abrogating (*nāsikh*) or abrogated (*mansūkh*) are very important information for a

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[57] In his chapter on *al-Fiqh al-Islāmī* Shahrour elaborates that the term, "*umm al-Kitāb*", is a specific name that could only mean the divine message brought by Muhammad because of its character of *ḥudūdiyya*. This character makes it capable of being a source of thousands of possibilities for Islamic legal rules. Consequently, other divine massages bestowed on other prophets are only labelled as "*Kitāb*", since they do not possess such a character. *Ibid.*, p. 579.

[58] *Ibid.*, p. 17.

[59] Abu Zayd, "Divine Attributes in the Qur'an", p. 194.

Figure 3: The Complete Version of Equivocalness-based Division of Qur'anic Verses
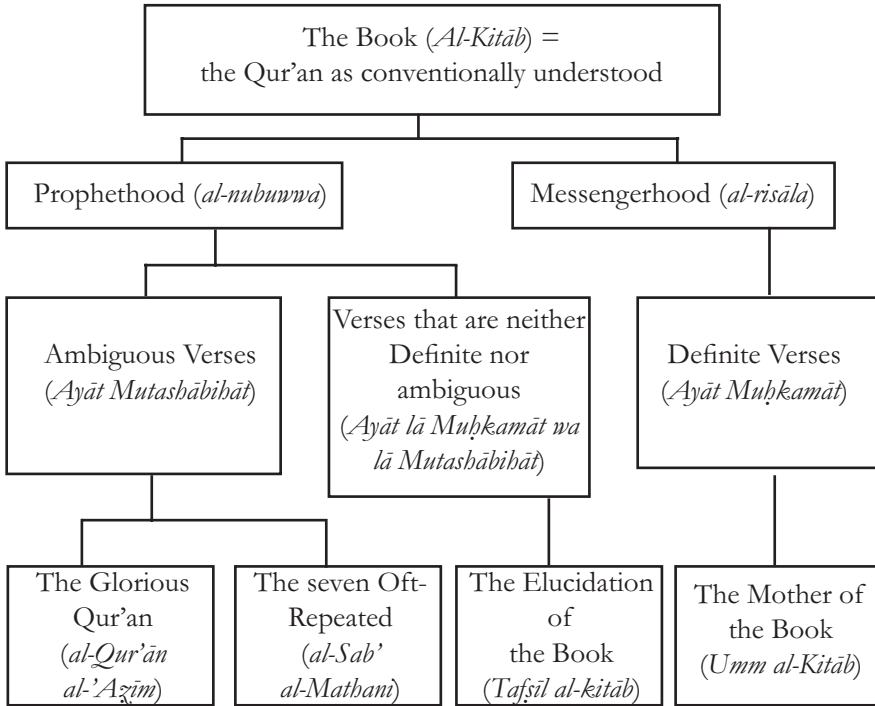
Note: this figure is simplified version of the chart presented by Shahrour at the beginning of his first book.

mujtahid.[60] However, as Christmann says, through *ijtihād,* Shahrour always consultes the Qur'anic text directly rather than the *asbāb al- nuzūl* or *naskh* sources.[61] Nevertheless, Shahrour's understanding of *ijtihād* is different from that of many jurists. Instead of defining *ijtihād* as an attempt to infer *aḥkām* from their sources and implement them to the particular needs of contemporary societies,[62] he puts it the other way around; it is the attempt to harmonize the temporal *aḥkām* with the eternally valid laws of *al-Qur'ān*. On this basis, Shahrour develops the principle of the

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[60] Shahrour, *Al-Kitāb wa'l-Qur'ān*, p. 159-60.

[61] Christmann, "The Form is Permanent, but the Content Moves", p. 169.

[62] Hashim Kamali, *Principles of Islamic Jurisprudence* (Cambridge: Islamic Texts Society, 1991), p. 367.

dialectics between straightness (*al-istiqāma*) and curvature (*al-ḥanīfiyya*) in the development of Islamic legislation, which then becomes the fundamental basis for what he calls *sharī'a ḥudūdiyya*.

D. *Sharī'a Ḥudūdiyya*: Islamic Law from A 'Scientific' Approach

Shahrour's principle of the dialectics between straightness (*al-istiqāma*) and curvature (*al-ḥanīfiyya*) refers to *al-An'ām*: 79. He found that *al-ḥanīf* (crookedness/curvature) is a fundamental character of nature; the sun, the earth, and all other material beings (*al-wujūd al-māddy*) possess this specific character. This is represented by motion, which is perceived not in a linear form, but rather in a nonlinear form. All things including the smallest electrons and colossal galaxies move in curves. "*Al-dīn al-ḥanīf*" is then defined as a religion with this kind of character. Apart from this tendency in nature, curvature in law is characterized as a quality of nonlinear movement, in which customs, habits, and social traditions are different from one society to another and changes gradually even within a society. In order to control this change, people need God's guidance to lead them to straightness. Consequently, the straightness is not a natural quality; rather it is a divine enactment intended to create a dialectic relation with the curvature. For him, this understanding is attested by *al-Fātiḥa*: 6 where, instead of seeking curvature, which already exists in nature, people are represented as searching for straightness in their guidance.[63]

It can be seen clearly that Shahrour's interpretation of the word "*al-ḥanīf*" is contrary to that of other exegetes, and, consequently, it has been subjected to many criticisms. In general, many challenge Shahrour's understanding on the grounds that he ignores the contexts of the verses in which the term is included. 'Afana, for example, says that "*al-ḥanīfiyya*" is a specific term only used in theological issues meaning confession of the oneness of Allah;[64] any attempt to separate the term from this

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[63] Shahrour, *Al-Kitāb wa'l-Qur'ān*, p. 449.

[64] Here, it seems that Shahrour tries to maintain the theological context of the verse, but with different connotations. For him, Ibrahim was the first one to discover and believe in the special character of nature; consequently he enjoys a special status before Allah among the other prophets. He believes that every existence is by nature crooked, non-linear, and changing except Allah. It means that considering any specific matter as perpetual and unchanging is regarded as creating another Supreme Being (*shirk*). *Ibid.*, p. 577.

theological context will result in a wrong understanding.[65] Another writer, Mahir al-Munajjid, specifically discusses Shahrour's interpretation on this term from both grammatical and etymological points of view and concludes that it is fallacious and unacceptable. He rejects Shahrour's dichotomy between this term and *al-istiqāma*, and instead considers that both of them have the same meaning, namely is consistency, straightness, without crookedness, loyalty, and adherence to the religion of Ibrahim.[66]

To put the above explanation in Shahrour's epistemological framework, the straightness (*al-istiqāma*) represents the objective reality (*al-ḥaqīqa al-mawḍū'iyya*), whereas the curvature (*al-ḥanīfiyya*) represents the subjective reality (*al-ḥaqīqa al-dhātiyya*). The eternal and absolute character of the straightness is guaranteed by its divine nature, and on the other hand, the relative and temporal character attached to the curvature is assured by human creativity in making choices between doing or omitting to do a particular activity. The dialectical relationship between these two in Islamic law, according to Shahrour, is inevitable because it indicates that Islamic law is adaptable to all times and places (*ṣāliḥ li kulli zamān wa makān*)[67]. Based on the *al-Rūm*: 30 law, he claims this adaptability could be guaranteed by the application of his *al-ḥanīfiyya* and *al-istiqāma* principle. It seems that Shahrour believes that his 'unfamiliar' principle is the right answer for the question of adaptability, since part of the verse explicitly enunciates that most people are not aware of what it means. Moreover, the verse also implies that, being a straight religion (*al-dīn al-qayyim*), Islam has the same character of strength and consistency as both human nature (*fiṭra*) and natural law as well.[68]

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[65] 'Afana, *Al-Qur'ān wa Awhām al-Qirā'a al-Mu'āṣira* (Amman: Dar al-Bashir, 1994), p. 287. Other writers who share this criticism are Nash'at Zabyan, *Dhāka Raddun* (Damascus: Dar Qutayba, 1992), pp. 77-78; Ahmad 'Imran, *Al-Qirā'a al-Mu'āṣira li'l-Qur'ān fi'l-Mīzān* (Beirut: Dar al-Nafa'is 1995), pp. 112-113; al-Shawwaf, *Tahafut al-Qira'a al-Mu'asira*, p. 538.

[66] Mahir al-Munajjid, *Al-Ishkāliyya al-Manhājiyya fi'l-Kitāb wa'l-Qur'ān; Dirāsa Naqdiyya* (Damascus: Dar al-Fikr, 1994), p. 157.

[67] Shahrour, *Al-Kitāb wa'l-Qur'ān*, p. 451.

[68] Here Shahrour lists a number of those natural consistencies as follows: (1) The highest mountain in the world is Mount Everest in Himalaya while the lowest place in the world is the bottom of the Dead Sea, and most people live in places between the two. (2) The longest day in Damascus in one year is 14 hours and 26 minutes, while the shortest is 9 hours and 50 minutes, and the rest of the days range between the

The dialectical relation of the straightness and the curvature, together with his finding about the consistency of human nature and natural laws led him to conclude that Islamic jurisprudence (*sharī'a*) is not "*'ayniyya*", but "*ḥudūdiyya*" since, for him, all legal rules carried by the verses of *umm al-Kitāb* represent the limits of Allah within which people can behave. That is to say that what are meant by the traditionalists as divine laws are actually boundaries, maximum or minimum, fixed by Allah within which people may operate in accordance with the Qur'an and the *sunnah*. It is the responsibility of a *mujtahid* to determine to what extent they will apply a particular rule from the texts according to objective conditions available in their specific place and time.[69]

Shahrour, then, proposes an approach toward the interpretation of legal verses called *sharī'a ḥudūdiyya*. Unlike the traditionalists, Shahrour bases his approach on the basic assumption that Islamic law is adaptable to all times and places (*ṣāliḥ li kulli zamān wa makān*). From his interpretation of *al-Rūm*: 30, he concludes that this adaptability will only be assured by understanding the dialectical relationship between the crookedness (*al-ḥanīfiyya*) of man, on the one hand, and the straightness (*al-istiqāma*) of God's law, on the other hand. According to Shahrour, just like the world and all nature, man is by nature crooked (not linear) and tends to

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two. (3) Man's eyes can perceive only above red coloured light and under ultraviolet coloured light. (4) Man's ears can only sense frequencies between 20 and 20.000 hertz. (5) The normal amount of glucose in the blood is between 70 and 120, and readings lower and higher than the limits will be considered abnormal and cause disruption. (6) The temperature of a particular place always ranges between the highest and the lowest. (7) The human body needs a minimum amount of water every day, while the maximum limit depends on the temperature and level of thirst. (8) The lowest speed by which the human body can leave the earth is 7 km because of gravity, while the highest is indefinite the point of light acceleration is reached. (9) Nothing in the world can exceed light acceleration. (10) The minimum conditions for human beings to live are water and oxygen…. *Ibid.*, pp. 575-77.

[69] On this basis then Shahrour concluded his concept of *ijmā'*. Unlike the traditionalists who consider it as a consensus of the opinions of jurists (*fuqahā'*), he regards it as a consensus of a majority of people represented by a consultative council where freedom of thinking is assured and guaranteed. That is to say that rather than leave the authority of legislation still in the hands of the *fuqahā'*, he removes it and relocates it under the authority of the people. This is conceivable because, for him, in all matters dealing with social transactions (*mu'āmalāt*), every single action is basically permissible. *Ibid.*, p. 582.

deviate from the straight path or from linearity. Therefore, God sends down guidance that checks the crookedness and gives straightness to it; this guidance is God's law.[70] That is to say that what was understood by the traditionalists as divine law is actually boundaries, either maximum or minimum, fixed by God within which man may operate in accordance with the Qur'an and the Sunna. The word "*ḥudūd*" (literally: limits) then became a fundamental keyword for achieving understanding of Shahrour's methodology of Qur'anic legal interpretation. This theory was articulated in his first book under title *al- Ḥudūd fi al-Tashrī' wa'l-'Ibāda* (the limits of legislation and worship).

Another key of Shahrour's *sharī'a ḥudūdiyya* is his mathematical analysis (*al-taḥlīl al-riyāḍiy*). His analysis is useful for illustrating how the two concepts of *al-ḥanīfiyya* and *al-istiqāma* are simultaneously interrelated through Isaac Newton's function notation. The function is symbolized by formula Y=f(X) means each function, at least, has two axes and one starting point; abscissa (X) represents time or historical context, coordinate (Y) represents God's law, and the starting point (0) symbolizes the beginning of Muhammad's mission(see picture 4).[71]

Figure 4: The Diagram Function Notation ala Shahrour

↑ Y (God's law)

X (time or historical context) →
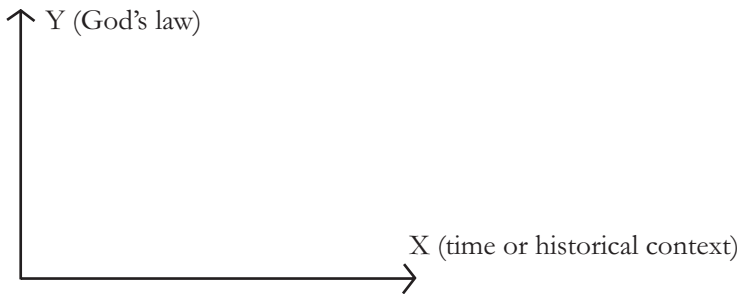
Note: this diagram is taken from Shahrour's first book.

Shahrour initiates to explain his concept by dividing the limits into the limits of legislation (*al-ḥudūd fi al-tashrī'*) and the limits of ritual performances (*al-ḥudūd fi al-'ibādāt*).[72] It is clear from the terms he uses that he differentiates between the domain of religious observances in

[70] *Ibid.*, p. 449.
[71] *Ibid.*, p. 452.
[72] *Ibid.*, p. 452-3.

which the use of reason is totally prohibited and the worldly domain (*mu'āmalāt*) in which the use of reason is strongly endorsed. To be sure, Shahrour's description of the concept is more complicated where the former is concerned than the latter. However, in both domains, it is easy to observe the construction of the concept from Hallaq's definition as follows:

> "it is the divine decree, expressed in the kitab and the Sunna, which sets a lower and an upper limit for all human actions; the Lower Limit represents the minimum action required by the law in particular case, and the Upper Limit the maximum. Just as nothing short of the minimum is legally admissible, so nothing above the maximum may be deemed lawful.[73] Once these limits are transcended, penalties become warrantable, in proportion to the violation committed".[74]

Based on the above-mentioned mathematical analysis, Shahrour draws six types of limits in the *sharī'a ḥudūdiyya* as follows:

1. The lower limit standing alone (ḥālāt al-ḥadd al-adnā)

Included in this type are all legal verses which contain only one limit at the lower. Consequently, legal reasoning (*ijtihād*) could be applied towards legislating divine rules precisely on or above the limit declared by a particular verse; nothing short of the limit is permitted, but it is possible to improve the limit. According to Shahrour, there are four cases that can be categorized in this type; they are: the prohibition on men marrying certain women in *al-Nisā'*: 22-23, prohibition on consuming certain foods in *al-Mā'ida*: 3, the matter of debt in *al-Baqara*: 282-284, and women's dress in *al-Nūr*. 31.[75]

In the first case, for example, Allah's clear prohibition to men on marrying women who have blood relations with them (their mothers, daughters, sisters and their daughters, maternal and paternal aunts) is absolute, no one can reduce it. However, the list can be expanded by adding, for example, daughters of maternal and paternal aunts who, based on medical research, may produce handicapped offspring if marriage is

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[73] This, actually, represents the theory in very broad terms, since one of six types has a lower limit that can be exceeded.

[74] Wael B. Hallaq, *A History of Islamic Legal Theories* (Cambridge: Cambridge University Press, 1997), p. 248.

[75] Shahrour, *Al-Kitāb wa'l-Qur'ān*, pp. 453-455.

concluded. For the second case, Shahrour concluded that the prohibition is not as solid as that of marriage since there is another verse that concerns exceptions, especially in emergency situations (*ḍarūrat*) in *al-An'ām*: 145. It means the limit for foods can be violated as long as the violation is based on a situation of emergency.

2. *The upper limit standing alone (*ḥālāt al-ḥadd al-a'lā*)*

Like the first, included in this type are all legal verses which contain only one limit, but these deal with the upper limit. Therefore, legal reasoning (*ijtihād*) could be applied towards legislating divine rules precisely on or under the limit declared by a particular verse; nothing above the limit is permitted, but it is possible to mitigate the limit. Two cases that may be categorized in this type, according to Shahrour, are the amputation for thieves in *al-Mā'ida*: 38 and the death penalty for murderers in *Sūrat al-Isrā'*: 33 and *al-Baqara*: 178. For both cases Shahrour stipulated that the penalties are upper limits that may not be exceeded, and it is for *mujtahid* in every generation to define the nature and magnitude of the theft and the murder that call for these maximum penalties. For example, stealing intelligence through espionage or embezzling money on the state level should not be considered common theft since national security and economic interests are at stake. Instead, resort may be had to other penalties in *al-Mā'ida*: 33, including being killed, or crucified, or have hands and feet cut off on alternate sides, or be expelled from the land. Here, Shahrour disagrees with An-Na'im who would drop the amputation stipulation as cruel and inhuman. Shahrour would retain it as maximum punishment applied proportionally.[76]

3. *The lower and upper limits joining together (*ḥālāt al-ḥadd al-adnā wa'l-a'lā ma'an*).*

This third type includes all legal verses which contain lower and upper limits. Consequently, legal reasoning (*ijtihād*) could be applied towards legislating divine rules above the lower limit and under the upper limits or precisely on both limits. Just as nothing short of the limit is permitted, so also nothing above the upper limit is considered lawful.

[76] Sanusi, "Democracy, Human Rights and Islam: Theory, Epistemology and the Quest for Synthesis", in www.nigerdeltaconqress.com/darticles// democracy_human_rights_and_islam. html.

Two cases that can be categorized in this type are inheritance in *al-Nisā':* 11-13, 176 and polygamy in *al-Nisā':* 3.

In his description of the first case, Shahrour cited all verses relating to inheritance; among them are: *al-Nisā':* 11-14. He argues that these verses bear the lower limit for women and the upper limit for men regardless of the difference of economical responsibility between the two. In the condition in which men are completely responsible, their share is twice as much as that of a woman. Here, the lower limit for a woman is 33,3 percent and the upper limit for a man is 66,6 percent of the estate. If the woman is given 40 percent and the man 60 percent, then both limits are not being violated, but if the woman receives 25 percent and the man 75 then the limits are being exceeded. That is to say that, in any case, the woman's share must not be less than 33,3 percent and the man's share must not be more than 66,6 percent; the actual portions, then, are decided according to the objective conditions existing in a particular society at a particular time.[77] Unlike the theft case, Shahrour's conclusion that no choice should be entertained for punishment of adultery is very questionable, especially from the human rights point of view, but it shows the consistency of his exclusive reliance on the Qur'anic text. On the other hand, it seems that Shahrour shares the traditionalists' epistemological platform that it is only God who knows the objectives of legislations and, consequently, to say a particular punishment is cruel or barbaric or inhuman is all human opinion.

4. *Cases in which the upper and lower limits have the same meeting point (ḥālāt al-ḥadd al-adnā wa'l-hadd al-a'lā 'alā nuqta wāḥida).*

This type is also called *ḥālat al-mustaqīm* (a straight position) or *ḥālat al-tashrī' al-'ayniyya* (where a particular rule is exactly proved by a certain verse) since it has only one meeting point representing the lower and upper limits. It simply means there is no *ijtihād*. The only legal verse in this type is *al-Nūr*: 2, about punishment for women and men guilty of adultery. Based on his interpretation on the word "*ra'fa*"[78] as a keyword,

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[77] A long and comprehensive explanation of the Islamic inheritance *à la* Shahrour can be found in his fourth book. Shahrour, *Nahw Usūl Jadīda li'l-Fiqh al-Islami: Fiqh al-Mar'a* (Damascus: Al-Ahāli li al-Tibā'a wa al-Nashr wa al-Tawzī', 2000), pp. 221-298.

[78] The full sentence in which the word "*ra'fa*" attached is "let not compassion move you in their case, in a matter prescribed by Allah (*wa la ta'khudhkum bi hima ra'fatan*

Shahrour believes that a hundred lashes is the only punishment that can be imposed for adultery without any mitigation. Compared with the verse on punishment for theft, he concluded that the word "*nakālan*" found in that verse instead of "*ra'fā*" means the amputation is an upper limit that may not be exceeded.

5. *Where there is an upper limit that may not be touched (*ḥālāt al-ḥadd al-a'lā bi khatt muqārib li mustaqīm ay yaqtarib wa lā yumass*).*

This fifth type has a logical coherence with the fourth type; while the fourth type exclusively dealt with adultery, this type deals with sexual relations between men and women. In other words, since adultery has a fixed punishment, sexual relations between men and women is permitted as long as they are not committing adultery. That's why, according to Shahrour, the redaction "*wa lā taqrab al-zinā*" and "*wa lā taqrab al-fawākhish*" are used.

6. *A positive upper limit that cannot be exceeded and a negative lower limit that can be exceeded (*ḥalat al-ḥadd al-a'lā mujib mughlaq la yajūz tajāwuzuhu wa'l-hadd al-adnā sālib yajūz tajāwuzuhu*).*

Included in this type are all legal verses on fiscal transactions such as *al-Tawba*: 60, *al-Rūm*: 39, *al-Baqara*: 275-278, and *Ali 'Imrān*: 130. The upper limit is represented by charging interest (*ribā*) and the lower limit represented by the payment of alms-tax (*zakāt*). The middle position between the two limits, equivalent to zero, is an interest-free loan (*al-qardā al-ḥasan*). According to Shahrour, since the prohibition on interest is not definitive in Islam, all economic activities involving interest could be considered lawful as long as the interest does not exceed 100 percent of the original loan. This percentage as the upper limit for interest chargeable on any fiscal transaction is based on *Ali 'Imrān*: 130.[79] On the other hand, the payment of alms-tax (*zakāt*), amounts to 2,5 percent at minimum, as the lower limit for donations may be exceeded by giving charity whose amount is unfixed.

Besides the above-mentioned six types of limits, Shahrour also

fi dinillah". This sentence, according to Shahrour, allows the conclusion that a hundred lashes is the upper limit and at the same time the lower limit. Shahrour, *Al-Kitāb wa'l-Qur'ān*, p. 463.

[79] *Ibid.* p. 467.

draws another set of limits on ritual performances (*'ibādāt*) as follows. First of all, in the Islamic prayer (*salāt*), the five daily prayers are not explicitly mentioned as the lower limit for Muslims. However, from many verses dealing with prayers it is obvious that there are four types of Islamic prayers.[80] Second, in fasting, the lower limit is fasting during the *ramadlān*. There is no upper limit and concession is due in certain conditions. Third, in the alms-tax (*zakāt*), the lower limit, based on the Prophet's decision, is 2,5 percent, and it is possible to exceed the limit through *ijtihād*. Fourth, in the pilgrimage (*ḥajj*), there is only one lower limit; it is once in a lifetime for a Muslim who is capable of performing it. Furthermore, Shahrour suggests that ritual performance (*al-'ibādāt*) is a kind of individual piety and has nothing to do with state, social, or economical matters.[81]

E. Conclusion

Sharī'a ḥudūdiyya proves that Shahrour's approach to the Qur'anic legal verses can be characterized as an open-ended process of socio-political and moral codes. Still holding on to the tool of textual analysis but combining it with a new perspective, *ḥudūdiyya*, it manages to be faithful to the text and, at the same time, compatible with the ideas and values of modernity and humanism. Elaborated by other theories from other disciplines, especially mathematics and physics, it provides a more detailed mechanism for its implementation.

This study also shows that Shahrour's admiration for the authority of human reason and his strong endorsement of empiricism in interpreting the Qur'an are undeniable. His definition of *sharī'a* as "a humanist and civilized legislation that guarantees the limits of Allah"[82] inevitably has the result that products of his legal reasoning are ideologically colored by liberal notions. Nevertheless, his acceptance of the separation between

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[80] The four types are: 1) the Jum'at prayer in *al-Jum'at*: 9; 2) the middle prayer (*al-salāt al-wusṭa*) in *al-Baqara*: 238; 3) the five-times prayers (*al-salawāt al-khams*) in *al-Mu'minūn*: 9 and *al-Ma'ārij*: 34; 4) the recommended prayers (*al-nafl wa al-taṭawwu'*) in *al-Furqān*: 64. It seems that Shahrour considers the Jum'at prayer as the most important in Islam and, consequently, rejects the five daily prayers as part of Muslim obligations. *Ibid.*, pp. 490-491.

[81] *Ibid.*

[82] *Ibid.*, p. 580.

religion and politics also brings him to secularist ideas. This does not appear as a complete breaking with religion as a source of legitimacy for social and political life, but rather as an attempt to provide a new interpretation of Islam which is compatible with contemporary human needs.

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