

Islamic Jurisprudence, Islamic Law, and Modernity

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Thomas Kuhn's concept of the "paradigm shift" in scientific revolutions provides a compelling framework for understanding the role of *taqlīd* in Islamic law. Just as Kuhn argued that scientific progress occurs through shifts between dominant paradigms rather than through a linear accumulation of knowledge, Mohammad H. Fadel suggests that *taqlīd* serves as a stabilizing force within Islamic jurisprudence, ensuring continuity amid evolving legal interpretations. While often viewed as an impediment to legal innovation, *taqlīd*, in Fadel's analysis, functions as an institutional mechanism that enables both preservation and controlled adaptation of Islamic law over time. This review examines Fadel's contributions to the discourse on *taqlīd*, highlighting its social logic, epistemological foundations, and implications for modern Islamic legal reform.

The book is organized into four key sections, each exploring different dimensions of Islamic law: its interaction with the state, the principles underpinning its jurisprudence, its impact on gender and family dynamics, and its influence on economic regulation. The first section, "Islamic

Law and the State,” examines how Islamic jurisprudence has historically interacted with political authority. Fadel challenges the notion that Sunni legal thought lacks a structured theory of governance, arguing instead that Islamic law has always presupposed the existence of a political order necessary for its implementation. This section also discusses the challenges of legal reform in modern contexts and the implications of *fiqh al-aqalliyyāt* (the jurisprudence of minorities) in shaping the rights of non-Muslims in Muslim-majority states.

The second section, “Islamic Jurisprudence,” focuses on the development of legal theory and the role of *taqlīd* in sustaining legal continuity. Fadel examines the social logic behind *taqlīd* and its institutional function in stabilizing legal interpretation. He also explores the relationship between *uṣūl al-fiqh* (legal theory) and *furūʿ al-fiqh* (substantive law), arguing that substantive legal doctrines often evolve independently from theoretical principles. This section highlights the complex balance between legal adaptation and adherence to established jurisprudence—a theme that is elaborated further throughout the book. The third section, “Islamic Law, Gender, and the Family,” delves into the gendered dimensions of Islamic legal thought. Fadel examines how medieval Sunni jurists conceptualized gender roles and the legal status of women in various domains, such as testimony, marriage, and guardianship. He critically assesses the Mālikī school’s interpretation of the guardian’s role in marriage and engages with broader discussions on political liberalism and family law pluralism. The final section, “Islamic Law and the Market,” addresses economic ethics and financial regulations in Islamic law. Fadel explores the historical prohibition of *ribā* (usury) and its implications for modern financial systems. He argues that contemporary Islamic finance must reconcile traditional legal norms with the practical demands of economic regulation. The book concludes with a discussion on how Islamic legal principles can inform ethical financial practices while maintaining economic efficiency.

A prevailing narrative in Islamic legal studies views *taqlīd* as a departure from the vibrant legal dynamism of the early Islamic period, leading to what has been described as the “closing of the gates of *ijtihād*.”¹ However, Fadel challenges this assumption by demonstrating that *taqlīd*

was not merely a passive form of legal imitation but rather a pragmatic response to the complexities of sustaining a coherent legal order. He situates *taqlīd* within the broader framework of Islamic legal history, showing that it functioned as a mechanism to maintain jurisprudential consistency, thereby facilitating judicial decision-making and preserving legal norms across generations.

Fadel explores how the rise of the *mukhtaṣar* (abridged legal manual) tradition in Sunni legal schools was a direct response to the institutionalization of *taqlīd*. These works condensed the vast corpus of jurisprudence into accessible legal summaries, allowing judges and jurists to apply established precedents efficiently. This codification process was essential in ensuring that Islamic law remained applicable in diverse socio-political contexts. Contrary to the notion that *taqlīd* stifled legal thought, Fadel argues that it enabled a controlled form of legal adaptation while preserving the integrity of the legal tradition. One of the most thought-provoking aspects of Fadel's discussion is his examination of the ethical responsibilities of the *muqallid* (one who follows juristic precedent). He engages with the famous maxim, "*Istafti qalbaka wa-in aftāka al-nāsu wa-aftūka*" ("Consult your heart, even if people issue legal opinions for you"), to explore the tension between autonomy and trust in Islamic legal practice. According to Fadel, *taqlīd* is not blind adherence to legal authority but a form of delegated epistemic trust. Jurists, as specialists in legal reasoning, serve as intermediaries between divine revelation and the lay public, making *taqlīd* a necessary component of a functioning legal system.

Fadel's analysis challenges the view that *taqlīd* is inherently at odds with ethical agency. Instead, he suggests that within the framework of Islamic jurisprudence, *muqallidūn* exercise moral discretion by choosing which legal authority to follow. This perspective highlights the dynamic nature of *taqlīd*, wherein jurists and their followers engage in an ongoing process of legal interpretation and application. A key contribution of Fadel's work is his discussion of the relationship between *uṣūl al-fiqh* and *furū' al-fiqh* within the context of *taqlīd*. He critically engages with the Mālikī principle of *istiḥsān* (juristic preference), arguing that substantive legal doctrines often develop independently of theoretical legal

principles. This insight is particularly significant in understanding how *taqlīd* functioned in practice: rather than rigidly applying abstract legal theories, jurists engaged in pragmatic legal reasoning while still adhering to the overarching framework of established jurisprudence. By emphasizing the interplay between *uṣūl* and *furūʿ*, Fadel demonstrates that *taqlīd* did not render Islamic law static. Instead, legal traditions adapted over time through interpretive mechanisms that allowed for a degree of flexibility while maintaining institutional continuity. His argument is particularly relevant in contemporary debates on Islamic legal reform, as it suggests that meaningful change does not necessarily require abandoning *taqlīd* but rather re-engaging with its epistemological foundations.

Fadel's reassessment of *taqlīd* carries significant implications for contemporary discussions on the reform of Islamic law. He critiques simplistic calls for reopening the gates of *ijtihād* without considering the structural role *taqlīd* has played in sustaining Islamic legal institutions. Instead of viewing *taqlīd* as an impediment to reform, he argues that a reconfigured understanding of *taqlīd*—one that acknowledges its historical function and potential adaptability—can facilitate meaningful legal evolution. To conclude, Mohammad H. Fadel's treatment of *taqlīd* in *Islamic Jurisprudence, Islamic Law, and Modernity* presents a compelling reevaluation of a concept long mischaracterized as an obstacle to legal progress. By highlighting the stabilizing function of *taqlīd*, its ethical dimensions, and its role in mediating between legal theory and practice, Fadel offers a historically grounded yet forward-looking framework for understanding Islamic law. His work challenges the binary opposition between *taqlīd* and *ijtihād*, advocating instead for a sophisticated engagement with Islamic legal traditions that acknowledges their inherent dynamism.

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Endnotes

- 1 Hallaq, W. B. (1986). "On the Origins of the Controversy about the Existence of Mujtahids and the Gate of Ijtihad." *Studia Islamica*, (63), 129-141.