

GLOSSARY OF ISLAMIC TERMS

- ‘*adl*, justice/fairness
‘*amal*, tradition (usually, of the People of Madinah)
‘*amd*, intentionally
‘*aql*, reason
‘*araḍ*, accident
‘*ibādāt*, acts/rituals of worship
‘*ibārah*, clear expression
‘*iddah*, waiting period (for women, after divorce)
‘*illah*, cause/reason/ratio legis
‘*ilm*, knowledge
‘*ilm ḥadīth*, science of narration
‘*ilm kalām*, Islamic philosophy of religion
‘*ird*, honor
‘*itrah*, Prophet’s next of kin
‘*umūm*, general expressions / generality
‘*urf*, custom/tradition
āḥād, single-chained narration
ahl al-atḥar, supporters of narrations
ahl al-ra’i, supporters of opinions
ahliyyah, legal capacity
ahliyyah adā’, active legal capacity
ahliyyah wujūb, receptive legal capacity
akhlāq makrumāt, virtues
amr, order
aṣl, primary situation
bid‘ah, innovation
bulūgh, puberty
ḍa‘if, weak (narration)
dalīl, evidences
dalīl ‘aqlī, rational evidence
dalīl ikhtirā’, evidence of creation
dalīl kullī, holistic evidence
dalīl ri‘āyah, evidence of sustainance
dalīl wujūd, evidence of existence
darūrah, necessity
ḍarūrāt, necessities
dhāt, essence
dhātī intrinsic
dilālah, implication
dilālah ‘aqlīyah, rational implication
dilālah ‘adad, implication of numbers
dilālah lafẓ, the implication of a term/ expression
dilālah siyāq, implication of the context
fahm, understanding
far’, secondary situation
fāsid, void/incorrect
fath al-dharā’i’, opening the means
fatāwā, legal opinions/edicts
fi‘l khalqī, creation-related actions
fi‘l tashrī‘ī, law-related actions
fiqh wāqi’, understanding of the status quo
fiṭrah, natural disposition
ghayr wāḍiḥ, unclear term
ḥadd, definition

- ḥadd riddah*, punishment for apostasy
ḥājīyāt, needs
ḥarām, sin/forbidden/prohibited/unlawful/sanctuary
ḥarfīyyah, literalism
ḥassan, embellished/beautiful
ḥikmah, wisdom (behind a ruling)
ḥujjiyyah, juridical authority
ḥukm, ruling/rule
ḥukm taklīfī, accountability ruling
ḥukm wad'ī, declaratory ruling
ḥurriyyah, freedom
ītibār, validity
idrāk, cognition
ijmā', consensus
ijtihād, new/diligent reasoning/reflection/judgement/independent judgement
iltzām, association/correlation
īmā', implicit implication
inḍibāt, consistency/exactness
iqtiḍā', implying omissance
ishārah, indirect implication
iṣlāḥ, reform
īshmah, infallibility
isti'nās, supporting evidence
istiḥsān, juridical preference
istiṣḥāb, presumption of continuity
istiṣnā', purchase with order
jam' bayn al-adillah, conciliation between evidences
juz'iyāt, partials
kalāmiyyūn, theologians/philosophers of religion
khafī, implicit/hidden
kullīyyāt, universals
madhāhib, traditional schools of Islamic law
mafhūm, understood by implication
mafhūm ghāyah, limit implication
mafhūm laqab, title implication
mafhūm mukhālafah, contrary implication
mafhūm muwāfaqah, coherence implication
mafhūm sharṭ, condition implication
mafhūm wasf, attribute implication
mafsadah, mischief
majāz, allegorical
makrūh, detested/discouraged
mandūb, recommended/encouraged
mānī', hindrance
manṭiq, logic
maqāsid, purpose/objective/principle/intent/goal/end
marjī' taqlīd, imitation (Shia) Reference
marjūḥ, outweighed
mas'alah, juridical case/issue
maṣāliḥ mursalah, unrestricted interests
mashhūr, famous (narration)
maṣlahah, interest/benefit/welfare
matn, content/body
mu'āmalāt, worldly transactions
mu'auwal, (re-)interpreted
mubāḥ, lawful
mufassar, explained
muḥkam, firmly constructed (expression)
mujmal, general
mukallaf, subject
mulā'im, reconciled attribute
munāsabah qiyās, appropriate attribute for analogy
munāsib, appropriate attribute
mursal, disconnected-end of chain of narrators
muṣawwibah, validators

- mushkal*, ambiguous
muṭābaqah, complete accord
mutashābih, resembling
mutawātir, most famous
muttaṣil, connected chain of narrators
nahī, negative order
naskh, abrogation
naṣṣ, script/text
qabīḥ, repugnant/ugly
qaṭʿī, certain
qawāʿid, basic rules
qiyās, analogical reasoning
qiyās awlā, obvious analogy
qiyās jalī, obvious analogy
qirāʾāt ʿashr, popular ten readings of the Qurʾan
ribā nasiʾah, deferred usury
rukhaṣ, provisions
sabab, reason
sababiyyah, principle of causation
sadd al-dharāʿi, blocking the means
sanad, chain of narrators
ṣarīḥ, clearly stated
shadāʿid, strictnesses
sharʿu man qablanā, previous jurisprudence
shariʿah, revealed law/way of life
shart, condition
shumūl, scope
shūra, consultation
ṣiḥḥah, correctness/authenticity
taʿāruḍ, opposition
taʾwīl, interpretation
taʿaddī, extension
taʿāruḍ al-adillah, disagreement/opposition between evidences
taḍammun, partial accord
tafsīr, exegesis
tafsīr mawḍūʿī, contextual exegesis
taghrīb, westernization
taḥqīq manāṭ, asserting the realization of ratio legis
taḥsīn wa taqbīḥ, embellishment and repugnance
taḥsīniyyāt, luxuries
tajdīd, renewal
takhrīj manāṭ, extraction of the grounds
takhṣīs, Specification
tamyīz, age of differentiation
tanqīḥ manāṭ, eliminating the alternatives /ratio decidendi
tawḥīd wa ʿadl, oneness of God and justice
ummah, nation
uṣūl dīn, fundamentals of religion
uṣūl fiqh, fundamentals of Islamic law
waḍʿ ḥadīth, forging of narrations
wājib, obligation/required
waṣāṭiyyah, centrism/moderation
wuḍūḥ, clarity
zāhir, apparent meaning
zāhiriyyah, literalists
zakah, obligatory charity
zannī, probable/speculated
zuhūr, visibility/clarity

GENERAL INDEX

- Abdel-Raziq, Ali, 173
- Abdu, Mohammad
- influences of, 169–70
 - Islamic modernism, 27, 144
 - maṣlaḥah*-based interpretations, 176–77
 - science based exegesis, 170–71
 - uṣūl* revisionism, 177
- ʿAbdullah ibn ʿAbbas, 61, 74
- ʿAbdullah ibn ʿUmar, 61, 74–75
- ʿAbdullah ibn Ahmad, 67
- ʿAbdullah ibn Masʿud, 79
- Abou El-Fadl, Khaled, 148, 150, 215
- abrogation (*naskh*), 89, 155, 219–24
- Abū ʿAlī, 194
- Abū Dharr, 234
- Abū Ḥanīfa, 65–66
- Abū Hāshim, 194
- Abū Hāzim, 110
- Abū al-Huzail, 194
- Abū Thawr, 65
- Abū Yūsuf, 66
- Abū Zaid, Nasr, 182, 190
- Ackoff, R., 36, 51
- acts of worship, 11
- advice, intent of, 235
- age of differentiation, 141
- ahl al-athar*, 61, 64
- ahl al-raʾī*, 61, 63
- ahlīyah* (legal capacity), 140–42
- Ahmad ibn ʿĪsā ibn Zayd, 67
- Aḥmad ibn Hanbal, 65
- Ahmad, Akbar, 148
- ʿĀʾishah, 62, 74, 86, 219, 225
- al-Albānī, 164
- ʿAlī ibn Abī-Ṭālib, 62, 74, 78, 86
- Ali, Yusuf, 57
- al-Alwani, Taha
- on gender equality, 187–88
 - maqāṣid* identified by, 8
 - new reading of the scripts, 173
- ʿamal *abl al-madīnah*. See Madinah’s tradition
- ambiguity in contracts, 239
- ambiguous terms, 92
- al-Āmidī, 2, 54
- Al-ʿĀmirī al-Faylasūf, 16, 22
- analogy, 112–20
- basing juridical preference on, 125
 - contradictions with texts, 119–20
 - multiple *qiyās*, 120
 - multiple step process for, 116–8
 - obvious, 94–95
 - priority over indirect implication, 97
 - Qiyās al-awlā*, 97
 - via purposes, 236–38
- analysis, systems approach to, 31–33
- ʿAntarah, 23
- anthropocentrism, 26
- anti-eurocentrism, 161
- apologetic interpretation of the Qur’an, 155, 174–76
- apostasy, 24
- apparent evidences (*ẓāhir*), 89, 91

- appropriateness (in analogy), 117
- approval, levels of, 136
- Arab world,
 development, xxii
 injustice in, xxii
 culture, 242
- Aristotle, 32, 49, 207–8
- Arkoun, Mohamed, 182
- Asad, Talal, 184
- al-Ash‘arī, Abū al-Hasan, 194
- Ash‘arites, 53–54
- al-Athram, Abū Bakr, 67
- atomic systems, 43
- atomism, 197
- attribute (*al-waṣf*) in contrary
 implication, 98, 228
- authority, levels of, 153–56
- autopoiesis, as necessary for living
 system, 37
- Averroes, 210
- al-Awazā‘ī, 65
- al-Azdī, Jābir ibn Zayd, 68
- Bahbahānī, 166
- al-Balkhī, Abū Zayd, 13–14, 247
- Banū Qurayzah, 9
- al-Bāqir, Imam, 68
- basis of stability principle, 41
- al-Bayḍawī, 46
- al-Bazdawī, 66
- Beer, S., 40
- belief, freedom of, 24
- Bertalanffy, Ludwig Von, 34
- Bin Bayyah, Abdallah, 16
- blocking the means, 125–27, 167,
 241
- books, wide distribution of, 157
- Boulding, K., 37, 42
- Bowler, D., 37
- brain drain, 22
- business management, 38
- camel, battle of, 86
- cancellation, as method of resolving
 uncertainty, 221
- categorisation
 concept-based compared with
 feature-based, 48–49
 in development of schools of
 thought, 70
 of disciplines, xxv, 249
- causality, 26–27
- causation, limitation of, 198–200,
 250
- centrism, 151
- certainty
 spectrum of, 211–8
 in *maqāṣid*, 21
- Checkland, Peter, 43
- child custody, 226
- Churchman, W., 36
- clarity in source texts, 89–93
- classificatory trees, 32
- closed systems, 35
- co-evolutionary Gaia, 42
- cognition, separating the revealed
 from, 194–96
- cognitive culture, xxvi, 201–6
- cognitive nature of Islamic law,
 45–46
- cognitive science, xxvi
- colonial period, 144
- Companions
 conflicts between, 61
 consensus of, 109
 legal debates among, 60
maqāṣid in ijtiḥād of, 9–13
 opinions of, juridical validity of,
 128–29
- comparative fiqh, 144

- compensation for unintentional killing, 205
 complexity in systems, 38
 complexity, proof of, 30
 concept-based categorisation, 48–49, 70
 conception and assent scheme, 105
 conceptions in medieval logic, 88
 conciliation, as method of resolving uncertainty, 219
 conditions (*al-shart*) in contrary implication, 98, 228
 consensus, 109–12
 as mechanism of consultation, 193–94
 basing juridical preference on, 124
 groundless claims of, 193
 conservative traditionalism, 147–48
 consultation (*al-shūrā*), 94, 193–94
 contemporarisation of *maqāsid* terminology, 21–22
 content incoherence, 232–33
 continuity, presumption of, 70, 131–32, 243
 contracts, ambiguity in, 239
 contradiction, 218
 contrary implication, 98–100
 control theory, 43
 Cook, N., 43
 correlation between systems and the outside world, 31, 45
 counselling, intent of, 235
 Critical Legal Studies, 189–90, 255
 Crone, Patricia, 190
 custody of children, 226
 custom (*urf*)
 basing juridical preference on, 125
 and cognitive culture, xxvi
 as an evidence, 130–31
 implicit conditions, 202
 intersection with fiqh, 196
 purpose of universality, 241–43
 qānūn and, 57–59
 cybernetic control principles, 41

 Damdam, Sons of, 23
 darkness principle, 40
darūrat. *See* necessity
 Draz, Abdullah, 172
 De Chardin, T., 42
 declaratory rulings, 139–40
 declination, era of, 75
 decompositional analysis, 26, 31–33, 38
 deconstruction, 180–84
 deductive logic, 237
 definitions, 211
 democracy, 174–75
 deontic logic, 209
 Derrida, Jacques, 180
 development, 24–25
 DeWitt, Richard, 205
 differentiation in complex systems, 35
 dignity, preservation of, 23
dilālah al-lafz, 12
dilālah al-maqṣid, 12
 dimensionality, 50–51
 disciplines, scope of, xxv–xxvi
 Doi, Abdur-Rahman, 148

 economic growth, 24
 Egyptian law, 58
 al-Eini, 46
 El-Awa, 173
 elimination, as method of resolving uncertainty, 220
 embellished actions, 52–53

- ends (*al-ghāyah*) in contrary implication, 98
- entropy, 35
- epistemological systems hierarchy, 43
- equifinality, 35
- Esposito, John, 145
- essence-based definitions, 211
- European Fiqh Council for Fatwa and Research, 165, 164
- evidence
- linguistic, 105–7, 197, 252
 - rational, 252–53
 - spectrum of certainty, 211–8
 - uncertainty of, 197–98
 - prioritisation of, 132–35
- evolutionary paradigms, 42
- exactness in using analogy, 115
- exegesis
- abrogation of verses, 222
 - apologetic interpretation, 155, 174–76
 - purposeful interpretation, 232–33
 - science based exegesis, 170–71
 - thematic interpretation, 171–74, 199
- experimental logic, 171
- explained evidences (*mufassar*), 89–90
- extension in analogy, 115
- fallacies, 200
- family, preservation of offspring as *maqṣid*, 22
- famous narrations, 83
- al-Fārābī, 210
- fatwas, xxiii, 234
- feature-based categorisation, 49, 70
- feedback principles, 41
- feminism, 150, 175, 189
- fiqh
- cognitive nature of, 45–46
 - comparative fiqh, 144
 - custom (*urf*), intersection with, 196
 - defined, xxiii, 56
 - differentiation from shari‘ah, 59–60
 - prominent books on, 158
 - See also* schools of Islamic law
- firmly constructed evidences (*muhkam*), 89–90
- Fivaz, R., 42
- freedom, 6, 247
- Friday sermon, 205
- fundamentalism
- categorisation of, 145–46
 - postmodernist fundamentalism, 168
 - RAND typology, 147
- Gaia system, 42
- Garoudi, Rouget, 186
- gender equality, 187–88
- general *maqāṣid*, 5
- generality in terms, 101–2
- Gény, 229
- Ghannouchi, Rachid, 175
- Gharajedaghi, Jamshid, 38, 51
- al-Ghazālī, Abū Ḥāmid
- consensus (*ijmā‘*), definition of, 109
 - contributions to *maqāṣid* theory, 248
 - development of al-Juwaynī’s work, 18
 - Greek logic, use of, 208–9
 - Ibn Taymiyah’s criticism of, 211–12
 - on *ijtihād* of the Prophet, 82

- influence of Greek philosophy, 69
 preservation, theory of, 22
 probability in an effective cause
 (*'ilal*), 216–18
 religion, preservation of, 24
 Shafi'i school, 59
 terminology used by, 2
 on theory of mean, 53
 validating all *ijtihād*, 194
- al-Ghazaly, Mohammad
 differentiation between means and
 ends, 187
 inclusion of justice and freedom
 in *maqāsid*, 6
 thematic interpretations of the
 Qur'an, 172
- goal-based classification of systems,
 39
- goal-seeking, 35, 51–52
- goals, compared with purposes, 51
- God, proofs of existence of through a
 systems approach, 29–30
- Greek philosophy
 impact of, 105–7
 influence of on Shāfi'i school,
 68–69
 traditional warnings against,
 206–7
- guidance, intent of, 234
- al-Hadad, al-Tahir, 182
- Haddad, Yvonne, 145
- hadith. *See* narrations
- Hadramawt, 234
- Hallaq, Wael, 190
- Hamed, al-Tijani, 172
- Ḥammād, 62
- Ḥanafī school
 abrogation, precedence of over
 conciliation, 155
- analogy, avoidance of in *'ibādāt*,
 115
- contrary implication, rejection of,
 98–99
- development of *uṣūl*, 65–66
- evidences, prioritisation of,
 132–35
- Ibn Mas'ūd's version of the
 Qur'an, 79
- implications, classification of,
 94–95
- implicit conditions from custom,
 202
- influence of 'Ā'ishah on, 62
- juridical preference, use of, 122
- killing, definition of, 92
- levels of obligation, 138–39
- mursal* hadiths, use of, 87
- opinions of Companions, juridical
 validity of, 128
- prominent jurists, 158
- resolving contradictory
 narrations, 221
- on sunnah as specifying Qur'anic
 expressions, 80
- al-zāhir* evidences, 91
- Hanafi, Hasan, 182–83
- Ḥanbalī school
 consensus, definition of, 110–11
- development of, 67
- evidences, prioritisation of,
 132–35
- juridical preference, use of, 122
- maṣlaḥah al-mursalah*, 122
- mursal* hadiths, avoidance of, 87
- opinions of Companions, juridical
 validity of, 128
- prominent jurists, 158
- Ḥarb, 67
- Hassan, 181

- Hegel, 32
- Heidegger, 180
- hierarchies of Islamic law, 48–49
- hierarchies within systems, 35
- hierarchy principle, 40
- historicity of means, 184–88
- Hitchins, D. K., 35, 38
- Hizb-ut-Tahrir, 147
- Holism, 34, 38
- holistic evidence in Islamic law, 46–47, 199
- holistic philosophical analysis, 32–33
- holistic theology, 200–201
- holon feature, 38
- homeostasis principle, 41
- homeostatic Gaia, 42
- honor killings, 58
- honor, preservation of, 22–23
- human development, 24–25, 249
- human dignity, preservation of, 23
- human rights, 23, 159
- Ibādī school
- evidences, prioritisation of, 132–35
 - juridical preference, use of, 122
 - history, 68
 - on Prophetic acts of worship, 81
 - prominent jurists, 158
 - trusted narrators, 86
- Ibn ʿĀbidīn, 90
- Ibn Abū Laylā, 66
- Ibn al-ʿArabī, Abū Bakr, 67
- Ibn al-Jazrī, 78
- Ibn al-Musayyab, 154
- Ibn al-Qayyim, Shams al-Dīn
- contributions to *maqāṣid* theory, 20
 - on Islamic law as based on justice and mercy, xxi–xxii
 - on wisdom and welfare, 185–86
 - position on embellishment and repugnance doctrine, 54
- Ibn al-Ṣalāḥ, 59, 206, 215
- Ibn Ashur, al-Tahir
- on care of family as a *maqṣid*, 22
 - exegesis of, 170
 - faiths, freedom of, 24
 - maqāṣid* identified by, 6
 - maṣlaḥah*-based interpretations, 176–77
 - prioritisation of *maqāṣid* with broader scope, 5
 - on the Prophetic sunnah, 81
 - prophetic intents, 233–34
 - rough set, 195
- Ibn Bābawayh, 244, 247
- Ibn Farḥūn, 241
- Ibn Ḥazm al-Zāhirī
- alternatives to Greek logic, 207
 - analogy, critique of, 114
 - Companions, prohibition of imitating, 129
 - consensus, critique of, 112
 - literalist approach, 9, 11
 - position on Madinah’s tradition, 129–30
 - groundless claims of consensus, 193
- Ibn Ibād, ʿAbdullāh, 68
- Ibn Qudāmah, 237
- Ibn Rushd
- multiple truths theory, 194
 - persecution of, 207
 - position on embellishment and repugnance doctrine, 54
- Ibn Sīnā, 210
- Ibn Taymiyah
- position on embellishment and repugnance doctrine, 54

- cognitive faculty, 46
- contention of the superiority of Arabs, 203
- critique of Aristotelian logic, 207–8
- critique of essence-based definitions, 211–12
- establishing matters of belief with *āḥād* narrations, 215
- on Ibn Ḥazm's claims of consensus, 193
- Madinah's tradition, 129
- as *uṣūlī* scholar in the Ḥanbalī school, 67
- Ibn Wahb, 67
- Ibn Warraq, 185
- Ibrāhīm al-Nakh'ī, 62
- ideologies, Islamic
- ideology-oriented theories, 168
 - introduction to, 145–46
 - RAND classification of, 147–50
 - script-based classifications of, 150–53
- ijma'. *See* consensus
- ijtihad
- necessity of, in all times, 47–48
 - of Companions, *maqāsid* in, 9–13
 - of the Prophet, 82
 - purpose-oriented, 11–12, 244–45
 - revealed, 193–94
- imams, 65–69
- implications
- contrary, 98–100
 - defined, 93
 - Ḥanafī classification of, 94–95
 - Shāfi'ī classification of, 95–96
- incoherence in narrations, resolving, 232–33
- inductive logic, 210, 237
- influential Gaia, 42
- information processing systems, hierarchy of, 42
- injustice, xxii
- intents, prophetic, 233–36
- interpretation (*ta'wīl*), 89
- interrelated hierarchies of Islamic law, 48–49
- interrelationships in a system, 35
- Iqbal, Mohammad, 144, 169–70
- iqtiḍā'*, 95
- Iranian revolutionaries, 147, 149
- Iraq, 62
- irrationality, 26–27
- Irving, T. B., 57
- ishārah*, 94
- Islam
- and politics, 173–74
 - demographics of, xxii
- Islamic law
- cognitive nature of, 45–46
 - consensus (*See* consensus)
 - contemporary theories, 253
 - current applications of, xxvii
 - current sources of, 159
 - current tendencies in, 160–62
 - defined, 56–57, 250–51
 - emergence of philosophy of, 16–17
 - fiqh and shari'ah, differentiating between, 59–60
 - imams, 65–69
 - interrelated hierarchies of, 48–49
 - modern changes to theories in, 144
 - multi-dimensionality of system of, 49–51
 - openness of system of, 47–48
 - proposed classification for theories of, 253–55
 - purposefulness of system of, 51–55

- Qur'an as source of law, 77–79
 sunnah as source of law, 79–88
 terrorism in the name of, xxi–xxii
 three meanings of, xxiii–xxiv
 universality of, 241–43
 wholeness of system of, 46–47
See also schools of Islamic law;
uṣūl al-fiqh
- Islamic modernism
 as reinterpreting Islam to fit
 conclusions of science, 27
 defined, 168–69
 literalist trends in, 230
- Islamic postmodernism. *See* postmodernism, Islamic
- Islamic systems philosophy, 29
- isti'nās* (supporting evidence), 154
- istiḥsān*. *See* juridical preference
- istiṣḥāb* (presumption of continuity),
 70, 131–32, 243
- Ja'far al-Ṣādiq, 65, 68, 74
- Ja'farī school
 analogy, rejection of, 112
 consensus, definition of, 110
 evidences, prioritisation of,
 132–35
 on *istiṣḥāb* (presumption of
 continuity), 132
 juridical preference, rejection of,
 122
 maṣlaḥah, rejection of, 122
 muhkam (firmly constructed)
 terms, classification of, 94–96
 previous jurisprudence, rejection
 of, 128
 prominent jurists, 158
- Jābir ibn Zayd, 62
- Jhering, 229
- Jordan, J., 39
- judgeship, intent of, 234
- Juma, Ali, 212
- juridical preference, 122–25, 239–41
- juridical tricks, 20
- justice, as basis of Islamic law,
 xxi–xxii
- al-Juwaynī, Abd al-Malik
 on consensus, 111
 contributions to *maqāṣid* theory,
 248
 holistic analogy, 199
 influence of Greek philosophy, 69
 levels of necessity theory, 17
 reconstruction of Islamic law,
 17–18
 terminology used by, 2
- Kahn, L., 36
- al-Karkhī, Abū al-Ḥasan, 224
- Katz, D., 36
- Khalaf-Allah, Mohammad, 174
- al-Khallāl, Abū Bakr, 67
- Khatami, Mohammad, 149, 175
- Khaybar, 234
- killer, definition of, 92
- killing, unintentional, compensation
 for, 205
- Kirchner, J. W., 42
- Klir, G., 43
- Koestler, A., 38
- Korzybski, 200
- Kurzman, Charles, 168
- al-Laknawī, 155
- land of Islam/land of war
 classification, 165
- Laszlo, 42
- law, philosophy of, xxvi, 16, 47, 116,
 135, 210, 229, 238
- leadership, intent of, 234

- legal capacity, 140–42
- legislation, intent, 234
- limits (*al-ghāyah*) in contrary implication, 98–99, 228
- linguistic evidence, 105–7, 197–98, 252
- literalism, 151, 204, 230
- literature, wide distribution of, 157
- logcentrism, 180
- logic
 - deductive, 237
 - deontic, 209
 - experimental, 171
 - Greek, use of, 208–9
 - inductive, 210, 237
 - medieval, conceptions in, 88
 - modern, xxvi
 - ‘Other logic’, 181
- logocentrism, 180–81
- London, xxi
- Lovelock, J., 42
- Luhmann, Niklas, 37
- luxuries, 3–4
- madhhab*. See schools of Islamic law
- Madinah’s tradition, 80
 - Companions, imitating, 129
 - in Maliki school, 129–30
 - opinions of Companions, juridical validity of, 128–29
- mainstream secularism, 148
- Mālik
 - juridical preference, use of, 123–4
 - maṣlaḥah mursalah*, 121
 - on multiple *qiyās*, 120
 - al-Muwattaʿa*’, 61
- Mālikī school
 - analogy in, 115
 - blocking the means (*sadd al-dharāʿi*’), 125–27
 - consensus, definition of, 109
 - development of, 67
 - evidences, prioritisation of, 132–35
 - juridical preference, use of, 122
 - killing, definition of, 92
 - Madinah’s tradition, 129–30
 - mursal* hadiths, use of, 87
 - prominent jurists, 158
 - on specifying Qur’anic expressions, 80
 - manāṭ* (in analogy), 116
 - maqāṣid al-sharīʿah*
 - classical conceptions of, 246–48
 - close link with *maṣlaḥah*, 2
 - compared with rituals, 204
 - contemporary conceptions of, 248–49
 - definitions, 1–3
 - developments between 5th and 8th centuries AH, 13–16
 - early theories of, 13–16
 - human development as, 24–25
 - implications on the law, 227–246
 - in ijtiḥād of the Companions, 9–13
 - levels of necessity, 3
 - modern criticisms of traditional classifications of, 4–5
 - as multi-dimensional structure, 8
 - relation to *uṣūl al-fiqh*, xxv
 - Maqsood, Ruqaiyyah, 148
 - Mardin, Serif, 148
 - marriage and consent, 225
 - al-Marwazī, Abū Bakr, 67
 - maṣlaḥah*, 120–22
 - basing juridical preference on, 125
 - close link with *maqāṣid*, 2
 - maṣlaḥah*-based interpretations, 176–77

- precedence over *naṣṣ*, 90
 purposes, coherence with, 238
 reason behind development of, 16–17
maṣlahah mursalah, 121–22
 Maslow, Abraham, 4, 246
 Maturana, H., 37
 Maturidis, 53–54
 al-Māwardī, 176
 maximum power principle, 42
 al-Maymūnī, ‘Abdullāh, 67
 mean, theory of, 53
 meanings (*ma‘ānī*), 105
 means and ends, differentiating between, 187
 means, blocking (*sadd al-dharā‘i‘*), 125–27, 167, 241
 means, opening, 241
 mercy, as basis of Islamic law, xxi–xxii
 Mernissi, Fatima, 189
 Mill, J.S., 210
 Miller, J., 42
 mind, preservation of, 22
 modern logic, xxvi
 modernism, 145–46, 148
 modernist philosophy, 26
 Moghissi, 184
 molecular systems, 43
 Moosa, Ebrahim, 169, 182
 most famous narrations, 83
 Mu‘awiyah, 86
al-mufassar, 91
mujtahids, 109
 multi-dimensionality
 in Islamic law, 49–51, 211
 and postmodernism, 226–7
 resolving opposition through, 218–26
 spectrum of certainty, 211–8
 multi-disciplinary research, 249
 multifinality, 35
 multigoal-seeking systems, 39
 multiple *qiyās*, 120
mursal hadiths, 87
 Mūsā al-Kāzim, 68
al-Muṣawwibah, 194
 Muslims
 honor of, sanctity of, 23
 impact of colonial period, 144
 prevalence of under-development among, xxii
 Mu‘tazili school
 conflict with Ash‘arī school, 59
 consensus in, 111
 differentiation between acts of worship and worldly acts, 81–82, 81
 embellished and repugnant acts, 52
 evidences, prioritisation of, 132–35
 on analogy, 114
 prominent jurists, 158
 reason, as source of law, 79
al-Muwatta‘, 61, 67
 Nāfi‘, 62
 an-Naim, Abdullah, 168
 narrations
 basing juridical preference on, 124
 famous and most famous, 83–84
 forging of, 61
 opposition, resolution of, 218–26
 popular hadith collections, 158
 purposeful interpretation, 232–33
 resolving contradictions with analogy, 119–20
 resolving opposing, 155

- science-oriented reinterpretation, 179–180
 single-chained, 80, 84–85
 specific and general, 101–2
 spectrum of, 211–8
uṣūl revisionism, 177–78
 verification procedures, 84
- narrations in schools of law, 71–75
 al-Nazzām, 114
 necessity (*darūrah*)
 basing juridical preference on, 124
 in relation to partial rulings, 21
 levels of, 3 (chart), 17
 needs, 3–4. *See also* necessity
 negative feedback principle, 41
 negentropy, 35
 neo-literalism, 151, 166–68
 neo-rationalism, 188–89
 neo-traditionalism, 164–66
 non-living systems, 43
 number (*al-ʿadad*) in contrary
 implication, 98–99, 228
- obvious analogy, 94–95
 offspring, preservation of as *maqṣid*, 22
 omittance, 95
 one-dimensional thought, 50–51
 open systems, 35
 openness, 38, 47–48
 openness, philosophical, 206–11
 opposition, resolution of, 218–26
 optimising Gaia, 42
 order, proof of, 30
 orderliness in systems, 37
 organised complexity, 38
 organismic analogy, proof of, 30
 Osman, Fathi, 172, 186
 ‘Other logic’, 181
- Pappus, 31
 parallel levels, 42
 partial *maqāṣid*, 5
 partial orientation of philosophical
 analysis, 32–33
 partial rulings, 21
 philosophy, traditional warnings
 against, 206
 philosophy for Islamic law, 16–17
 philosophy of law, xxvi
 Pickthall, Marmaduke, 57
 Plato, 32
 political theory, neutrality and Islam,
 173–75
 positive feedback principle, 41
 post-colonialism, 190–91
 postmodernism
 and multidimensionality, 227–28
 approaches to Islamic law,
 180–82
 Critical Legal Studies, 189–90
 historicity of means, 184–88
 neo-rationalism, 188–89
 post-colonialism, 190–91
 postmodernist fundamentalism,
 168
 post-structuralist deconstruction,
 182–84
 use of deconstructionist concepts,
 27
 post-structuralism, 182–84
 Powers, W. T., 43
 Preservation, al-Ghazālī’s theory of,
 22
 presumption of continuity, 70,
 131–32, 243
 previous jurisprudence, 127–28
 primary situation in analogy, 113,
 115
 primary sources, 107

- processing levels, 42
- prophetic ijihad, 82
- prophetic purposes, 233–36
- punishment, al-‘Āmirī’s theory of, 22
- purposefulness, 227–28
 - analogy via purpose, 236–38
 - behavior, proof of, 30
 - as common grounds for schools of law, 243–44
 - concept of, 29
 - as criteria for ijihad, 244–45
 - implications of the purpose, 228–32
 - interests coherent with, 238
 - interpretations of primary sources, 232–33
 - of Islamic law, 51–55
 - juridical preference based on, 239–41
- purpose-oriented ijihad, 11–12
- purposes, compared with goals, 51
- purpose-seeking systems, 52
- al-Qaffāl al-Shāshī al-Kabīr, 14–15, 69, 247
- qānūn*, 57–59
- al-Qaradawī, Yusuf
 - inclusion of human dignity in *maqāṣid*, 5
 - on *jilbāb* as means of achieving modesty, 187
 - maqāṣid* identified by, 6–8
 - as a reformist, 148, 150
 - on zakah, adapting rulings of, 11
- al-Qarāfī, Shihāb al-Dīn
 - contributions to theory of *maqāṣid*, 19
 - development of Malik’s methodology, 67
 - opening and blocking the means, 241
 - on prophetic intents, 233
 - on prophetic sunnah, 81
 - terminology used by, 2
- al-Qaṣṭalānī, Quṭb al-Dīn, 19
- qiyās*. *See* analogy
- qualified expressions, 102–5
- al-Qummī, Ibn Bābawayh, 16
- Qur’an
 - Abduh’s exegesis of, 170
 - apologetic and radical interpretations, 155, 174–76
 - exegesis, books on, 157 (*See also* exegesis)
 - historicist approach, 184
 - post-structuralist deconstruction, 182–84
 - qualified expressions, 102–5
 - as primary source of law, 77–79
 - specific and general verses, 101
 - sunnah in relation to, 80
 - ta’wīl*, 154
 - thematic interpretation, 171–74
- Quraysh, 190
- Qutb, Sayyid, 172
- radical fundamentalism, 147
- radical secularism, 148
- Rahman, Fazlur, 146, 168, 173
- Ramadan, Tariq, 146
- RAND, 147–50, 253
- rational evidence, 252–53
- al-Rāzī, Fakhr al-Dīn
 - on uncertainty of linguistic evidence, 197–98
 - terminology used by, 2
- reason, as source of law, 79, 188–89
- receptive legal capacity, 141
- redundancy of resources principle, 41
- reformist reinterpretation, 171–74
- reformist traditionalism, 147–48

- regulation in systems, 35
 regulation, proof of, 30
 relaxation time principle, 41
 religion, preservation of, 24
 renaissance, 26
 renewal, 44
 repugnant actions, 52–53
 resembling terms (*mutashābih*), 93
 revealed ijthad, claims of, 193–94
 Rida, Rashid
 exegesis of the Qur'an, 170
 inclusion of women's rights in *maqāṣid*, 5
 maqāṣid identified by, 6
 rituals, 204
 Robinson, Neil, 169
 rulings
 change of, with cognitive culture, 201–6
 classification of (chart), 136
 levels of approval, 136
 obligations and prohibitions, 136–37
 optional levels, 137–38
 Russell, Bertrand, 33, 49

 Saadawi, Nawal, 148, 150
 Sachedina, Abdulaziz, 174
sadd al-dharā'ī (blocking the means), 125–27, 167
 al-Sadir, Ayatollah, 172, 177–78
 al-Sagheer, Abdul Majeed, 190
 Said, Edward, 190
 Sa'īd ibn al-Musayyab, 62
 Salafi movement, 147, 149, 151
 Ṣāliḥ ibn Aḥmad, 67
 Sālim, 62
 Salk, J. E., 42
 al-Ṣana'ānī, 226
 Sardar, Ziauddin, 169

 al-Sarkhasī, 66
 Saudi High Council of Fatwa, 167
 scholars, credibility of, 109
 scholastic neo-traditionalism, 164–66
 scholastic traditionalism, 162–63
 schools of Islamic law
 ahl al-ra'ī and *ahl al-athar*, 61, 63–64
 declination, era of, 75
 disputes between, 59
 history, 60–64, 251
 imams, 65–69
 interconnectedness between, 74
 madhāhib categorisation, critique of, 69–71
 purposefulness as common ground between, 243–44
 scholastic neo-traditionalism, 164–66
 scholastic traditionalism, 162–63
 sources of legislation 69 (chart)
 studentship and narration, 71–75
 science, 26–27, 170–71
 science-oriented reinterpretation, 179–180
 scope of terms, 100–101, 103–4
 scriptural fundamentalism, 147
 secondary situation in analogy, 113
 secondary sources, 107
 sectarian divisions, 243–44
 secularism, 145–46, 151
 self-organising systems principle, 41
 self-renewal, 44, 206–11
 sermons in Arabic, 205
 Shāfi'ī school
 acceptance of some *mursal* hadith, 87, 154
 analogy, priority over indirect implication, 97
 contrary implication, 98–99

- development of, 68–69
- evidences, prioritisation of, 132–35
- implications, classification of, 95–96
- juridical preference, rejection of, 122
- position on Madinah's tradition, 129
- on sunnah as specifying Qur'anic expressions, 80
- Shahrur, Mohammad, 148, 150, 186
- Shamsuddin, Ayatollah Mahdi, 186, 244
- Shar'iah. *See* Islamic law
- shar' u man qablanā* (previous jurisprudence), 127–28
- al-Shāṭibī, Abū Ishāq
- contributions to *maqāṣid* theory, 20–21
- on embellishment and repugnance doctrine, 54
- holistic features of Islamic law, 199
- on levels of necessity, 4
- on when purpose-oriented *ijtihad* is appropriate, 11
- al-Shaybānī, Moḥammad ibn al-Ḥasan, 66, 239
- Shepard, William, 145
- Shia jurists, use of *maqāṣid* among, 16
- Shia schools
- embellished and repugnant acts, 52
- jurisprudential differences with Sunni schools, 86
- literalist tradition in, 166
- mursal* hadiths, use of, 87
- similarity with Sunni schools, 244
- trusted narrators, 86
- See also* Ja'farī school; Zaydi school
- shūrā* (consultation), 94, 174
- silent consensus, 111
- single-chained narrations, 80, 84–85
- Skyttner, Lars, 40
- socialism, 174
- Soroush, Abdul-Karim, 149, 173, 186
- specific *maqāṣid*, 5
- specification (*takhṣīṣ*), 89, 103–4
- stagnation, 151
- steady-state principle, 41
- studentship in schools of law, 71–75
- subatomic systems, 43
- Suboptimisation principle, 40
- Sufism, 13
- Sulaiman, Sadek, 174
- Sulaymān ibn Yasār, 62
- Sunnah, 79–88
- Sunni schools
- jurisprudential differences with Shia schools, 86
- similarity with Shia, 244
- trusted narrators, 86
- supporting evidence (*isti'nās*), 154
- Sword, verse of, 222
- synthesism, 38
- systematic incoherence, resolving, 232–33
- systematic interpretation, 171
- systems, defined, 33
- systems theory, xxvi
- systems-based analysis
- cognitive nature of Islamic law, 45–46
- complexity in, 38
- defined, 26
- features of, 34–35

- hierarchies and levels, 37
 hierarchies, theories of, 42–45
 interrelated hierarchies of Islamic law, 48–49
 introduced, 33–34
 Islamic law, wholeness of system of, 46–47
 Islamic, 29
 multi-dimensionality of Islamic law, 49–51
 openness of Islamic law, 47–48
 proofs of existence of God, 29–30
 purposefulness of Islamic law, 51–55
 systems as real or mental creations, 30–31
 of theories of Islamic law, 255–58
- al-Tabari, 100
 al-Tabtabai, 171
 Taha, Mahmoud Mohamed, 174
 al-Tahtawi, Rifaa, 144
ta'wīl, 154
 teleological Gaia, 42
 teleology, 26–27
 terrorism, in the name of 'Islamic law', xxi–xxii
 textual evidences (*naṣṣ*), 89–90
 theft, halting punishment for based on *maqāṣid*, 12
 thematic interpretation of the Qur'an, 171–74, 199, 232
 thieves, definition of, 92
 Tibi, Bassam, 148
 title (*al-laqab*) in contrary implication, 98, 228
 al-Tirmidhī, al-Ḥakīm, 13
 traditionalism
 categorisation of, 147–48
 scholastic neo-traditionalism, 164–66
 scholastic, 162–63
 transformation in systems, 35
 truth, multiplicity of, 194
 al-Ṭūfī, Najm al-Dīn
 maṣlaḥah al-mursalah, 122
 on *maṣlaḥah* overriding a specific/case-based *naṣṣ*, 90
 terminology used by, 2
 al-Turabi, Hasan, 172, 186, 199, 243
- ʿUmar ibn al-Khaṭṭāb
 application of principles of *maqāṣid*, 9–11
 influence of on schools of law, 74
 Umm Salamah, 226
 uncertainty, 197–98, 237
 unclear rulings, 89
 United Nations Development Programme, xxii
 United States Supreme Court, 238
 Universal Islamic Declaration of Human Rights, 23, 159, 248
 universality of Islamic law, 241–43
 unorganised complexity, 38
ʿurf. *See* custom
 ʿUrwah ibn al-Zubair, 75
uṣūl al-fiqh
 analogy, 112–20
 blocking the means, 125–27
 clarity in source texts, 89–93
 Companions, juridical validity of opinions of, 128–29
 consensus, 109–12
 continuity, presumption of, 131–32
 current sources of law, 159
 custom (*See* custom)
 development of in the Ḥanafī school, 65–66
 evidences, prioritisation of, 132–35

- fundamental sources, 76–77, 251–52
 juridical preference, 122–25
 Madinah's tradition, 129–30
maṣlaḥah (See *maṣlaḥah*)
 Qur'an as source of law, 77–79
 reason as source of law, 79, 188–89
 relation to *maqāṣid al-shar'iah*, xxv
 summary chart, 69
 sunnah as source of law, 79–88
 as a system, 45
 See also Islamic law
- uṣūl* revisionism, 177–79
 'Uthmān ibn 'Affān, 61, 77
- Validators, the, 194
 validity, in analogy, 115
 Varela, V., 37
 verification of narrations, 84
 viability principle, 41
 viable system model, 40
 visibility in analogy, 115
 Voll, John, 145
 von Wright, 209
- Wahhabi movement, 147, 149, 151
 waiting (*al-tawaqquf*), as method of resolving uncertainty, 220
 wealth, preservation of, 24
 Weaver, W., 38
 Whitehead, A. N., 33
 whole terms (*mujmal*), 92
 wholeness of Islamic law, 46–47
 women, testimony of, 186
 worldview, 201–6
- al-zāhir*, 91
 Zāhirī school, 65
 analogy, rejection of, 112–4
 definition of consensus, 109
 evidences, prioritisation of, 132–35
 juridical preference, rejection of, 122
maṣlaḥah, rejection of, 122
 neo-literalism, 166
 on single-chained narrations, 84
 on sunnah as specifying Qur'anic expressions, 80
 previous jurisprudence, rejection of, 128
 prominent jurists, 158
 reconstruction of Aristotle's syllogism, 207
- zakah
 adapting rules of based on *maqāṣid*, 10–11
 inconsistencies in number, 99–100
 al-Zarkashī, 154
 Zayd ibn 'Alī, 65, 67
 Zaydī school, 67
 analogy, rejection of, 112
 Companions, on imitating, 129
 consensus, definition of, 110
 juridical preference, rejection of, 122
maṣlaḥah, rejection of, 122
muḥkam (firmly constructed) terms, classification of, 94–96
 prominent jurists, 158
 on sunnah as specifying Qur'anic expressions, 80

- References used in this work were primarily in Arabic and English.
- The translation of the quotes I used from Arabic sources are all mine, except otherwise indicated.
- As for the Qur'anic verses, the translation I deemed most suitable to represent the meaning of the verse(s) is quoted and the translator is mentioned. Otherwise, I translated verse(s) based on my experience with both languages, and explained the difference between my translation and other popular translations.
- The translation of hadith quoted throughout the book is mine. All the hadiths mentioned in the book are at least at the degree of 'good' (*ḥassan*), from a classic 'science of narration' point of view. However, the general procedure of 'authentication' in traditional science of narrations is critically analysed within the systematic analysis of the fundamental (*uṣūl*) concepts.
- It is also important to note that Arabic words and expressions usually bear more than one meaning, and thus, could be translated in more than one way. In the text, I used the translation that I deemed most suitable to the context, and included a glossary of the most frequently used Arabic terms in the end of this book, which shows multiple possible meanings for some terms.
- I often followed (between brackets) the English-translated juridical terms with their original Arabic terms, as they appear in literature written in the Arabic language. This is meant to enable readers familiar with the Arabic language to capture all additional 'shades of meanings' that the Arabic terms might imply.
- Popular Arabic terms in this discipline, such as *uṣūl*, *fiqh*, and *fatwa*, are sometimes used interchangeably with their translations after the first time they are mentioned (and translated).
- Dates are shown according to both the Islamic calendar (*hijrā*, labelled AH) and the Gregorian calendar (*milādī*, labelled CE). Date conversion, when needed, was carried out using Tarek's Universal Calendar Converter (version 8).*
- I also used a number of charts to illustrate the analysis presented throughout. The charts are mine, unless otherwise indicated.

Finally, the nature of this book is 'analytic.' There is no process of gathering empirical data from 'participants' in order to form some statistics-based conclusions, in a Social Sciences sense. However, I directly asked a number of scholars/researchers in various countries about their opinions and positions regarding a number of issues. Thus, I mentioned those opinions in the body of this work, attributed them to their holders, and added endnotes that indicate the country and date in which these oral discussions took place.

*Universal Converter, Tarek's Hijri/Gregorian/Julian/Hebrew/Chinese Universal Calendar Converter (version 8). Available from <http://bennyhills.fortunecity.com/elfman/454/calindex>