

## INTERROGATING THE IMPORTANCE AND RELEVANCE OF ARABIC LANGUAGE TO THE STUDY OF SHARI'AH

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### ABSTRACT

This paper attempts interrogating Arabic language as a language, the importance and relevance to the study of *Shari'ah* generally. It demonstrates that Arabic, is a medium of communication, not a sacred language as some believe. Prophet Muhammad received his message from God in Arabic and with the rise of Islam, Arabic shifted from a little-known tribal language to the lingua franca for the Muslim world and plays great role in international affairs today. The study found that the Eleventh century marked a period of stagnation for Arabic language but its status as the language of Islam was never threatened. *Shari'ah's* language remains Arabic in which it was revealed and which the language of the prophet Muhammad is. Thus, the understanding of the rules of law from the Qur'an and the *Sunnah* can only be derived if stylistic peculiarities of Arabic language, its lexical meanings and structure are understood. All sources of *Shari'ah* and contributions of jurists to it have been preserved in Arabic. Prayers and pilgrimage were to be observed with Arabic. The paper discovers that, Classical Arabic has a vocabulary in which the meaning of each root-word is so comprehensive that it is difficult to interpret it in a modern analytical language word for word, or by the use of the same word in all places where the original word occurs in the text. Thus, study of *Shari'ah* without the least knowledge of Arabic may be as futile as dealing with English law without the knowledge of English language.

KEY WORDS: Arabic language, *al-mushtarak*, *al-maja'az*, *Shari'ah*, *al-Fiqh* and *Usul al-Fiqh*.

### INTRODUCTION

Language is at the heart of culture, and culture is the glue of society, without language, culture could not be transmitted from one generation to the next. Language is a means of communicating thoughts, ideas, and concepts. Through this medium, ideas are conveyed from one person to another, from one place to another, and from the past to the present and recorded for the future. Whether written or spoken, it remains as a medium through which people express their thoughts, images, and emotions in a manner comprehensible to

others.<sup>1</sup> Professor Richard Horton opines that, if we analyze language, and study the relationship between languages and thought the issue becomes more complex. Does language play a role in the way we perceive, think, analyze, or judge, and if so to what extent and in what ways? Many different scientific theories and research have only contributed to confusion. Rather, we will discover through empirical evidence that language is not part of the thinking process but one of its byproduct. This is evident by people who speak different languages and share similar ideologies and views. It is common to see a Chinese, a Korean, a Cuban, or a German adopting Communism as an ideology and applying it without any interference from their respective languages. He further argues that these languages do not modulate their viewpoint towards different issues. The same can be said of the Muslim and Capitalist with respect to the fact that dissimilar languages do not result in ideological differences. To claim the opposite does not only mean to cast a blind eye on hard empirical evidence but more significantly demonstrates a racial inclination that speakers of certain languages are more intelligent than speakers of other languages. It should be emphatically noted that language is independent from thought, and that thinking precedes language and thinking produces language and continues to expand the depth and breadth of language. Arabs have always prided themselves on their language and, in particular, their poetry. Poetry was the primary medium of ancient times through which tribes were praised, enemies were lampooned, messages were sent, and much more. At the fairs of Ukāz, poets would read and listen to poetry as well as critique it as an inter-tribal custom.<sup>2</sup>

Most languages, if they do not change with time, they either become obsolete, or extinct in terms of their usage. It is as if their very survival depends on how these languages respond to the dynamic forces of change in the contemporary societies. This could make one wonder how the Qur'anic Arabic language has been preserved over so many centuries. The obvious connection between the Holy Qur'an, and the language in which it was revealed to Prophet Muhammad explains the preservation of Qur'an, and the Qur'anic Arabic.<sup>3</sup> This is borne out by the following verses from the Qur'an: "*We have, without doubt, sent down the Message; and we will assuredly guard it (from corruption)*"; "*We have sent it down as an Arabic Qur'an, in order that ye may learn wisdom.*"<sup>4</sup>

Qur'anic Arabic belongs to the Semitic group of languages. By the third century (C.E.), Arabic had developed into a full - fledged language. In the present time most of the Semitic languages have disappeared. In addition to Arabic, the only living Semitic languages are Modern Hebrew, Amharic, and a dialect of Aramaic. As for Arabic, it remains not only a fully living language but also enjoys a unique importance. It alone can serve as the

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<sup>1</sup> Richard Horton, "the importance of the Arabic language", available at: <http://islamicssystem.blogspot.com>. Accessed, 28/07/2015.

<sup>2</sup> Importance of the Arabic language available at: <http://www.islamicrival.com>. Accessed, 27/07/2015.

<sup>3</sup> Akhtar H. Emon, "A Case for Qur'anic Arabic - Arabic as a Second Language" available at: [www.islamicity.com/education/ASL.htm](http://www.islamicity.com/education/ASL.htm). Accessed, (6/8/2015).

<sup>4</sup> Qur'an, 15:9; Qur'an, 12: 2.

source of knowledge for all Semitic languages. Whenever the Grammarians (experts) of these languages are faced with intricate grammatical problems, they refer to, or consult parallel grammatical rules in Qur'anic Arabic. These rules are exemplified in the Qur'an. Besides grammar, enormous changes have taken place in the vocabulary of all Semitic languages. The present versions of these languages have little resemblance with their origin. The only exception is the Qur'anic Arabic, the language of the Qur'an, which retains its original grammar, syntax, and vocabulary. Approximately one billion Muslims of the world recite the Qur'an in its original language. However, most of them cherish the desire to comprehend the Qur'an directly without having to read a translated version in their native language.<sup>5</sup>

Arabic, like other languages is a medium of communication. It is not a sacred language as some believe.<sup>6</sup> Though, with the rise of Islam, Arabic shifted from a little-known tribal language to the lingua franca for the Muslim world. It was a prerequisite to scholarship and knowledge of it became a matter of the utmost seriousness.<sup>7</sup> It is the language of the Qur'an and *Sunnah*. It is the medium through which the Islamic concepts and laws were conveyed. Since the language of the Qur'an and *Sunnah* is Arabic, it is the main source of communication about Islam. The importance of Arabic Language has always been known for the above reasons. University of Texas at Austin (UTA), Princeton, and Harvard have recently established Islamic Jurisprudence Departments, and teaching courses in Islamic Law. However, These Universities do require knowledge of Arabic Language as a prerequisite.<sup>8</sup> From an Islamic perspective, we are encouraged to learn as many languages as possible, and especially those that will help us gain better understanding of our religion. Certain Islamic terms simply cannot be translated accurately into languages such as English. For example, the word *Najasah* as we know has a deeper connotation than what may be generally thought of as "uncleanliness". The essence of the term is not maintained when deciphered into English or other languages. From this point the paper examines Arabic as a language, and as a lingua Franca of Islam with special attention to its importance in the study of *Shari'ah*.

## ARABIC LANGUAGE

Arabic (*al-lughatu al-'arabiyyah*, اللغة العربية) belongs to the Afro-Asiatic (or Hamito-Semitic) family of languages that consists of over three hundred languages, some of which are extinct and some used marginally as

<sup>5</sup> Abdullah al-Batili. "Importance of Arabic language- the language of the Qur'an". Available at: [www.angelfire.com](http://www.angelfire.com). Accessed, 28/07/2015.

<sup>6</sup> Horton, (2015).

<sup>7</sup> Emon, (2015).

<sup>8</sup> Emon, (2015).

liturgical languages.<sup>9</sup> Arabic and Hebrew are the two prime examples of living Semitic languages while Hausa and various dialects of Berber are examples of surviving Hamitic languages. The earliest known example of Arabic is an inscription found in the Syrian Desert dating back to the fourth century A.D. The pre-Islamic Arab tribes who lived in the Arabian Peninsula and neighboring regions had a thriving oral poetic tradition. But it was not systematically collected and recorded in written form until the eighth century A.D. This poetic language, probably the result of the fusion of various dialects, came to be regarded as a literary or elevated style which represented a cultural bond among different tribes.<sup>10</sup>

Prophet Muhammad received his messages from God in Arabic through the Angel Gabriel over a period of twenty-three years, 610-632 A.D. The Holy Quran, containing these messages, was originally committed to memory by professional reciters (*hufaz* and *qura'*). With the spread of Islam, different accents for the pronunciation of the Quran came into use until a standardized version (with notations for different accents) was completed under the third Caliph, Uthman Ibn 'Affan, in the mid-seventh century A.D.<sup>11</sup> As more and more non-Arabic speakers were drawn to Islam, the Quran became the most important bond among Muslims, Arabs and non-Arabs alike, revered for its content and admired for the beauty of its language. Arabs, regardless of their religion, and Muslims, regardless of their ethnic origin, hold the Arabic language in the highest esteem and value it as the medium of a rich cultural heritage. It is this intimate connection between the Quran and Arabic which gave the language its special status and contributed to the Arabization of diverse populations.<sup>12</sup>

## THE SPREAD OF ARABIC

By the beginning of the eighth century, the Islamic Arab Empire had spread from Persia to Spain, resulting in the interaction between Arabs and local populations who spoke different languages. In Syria, Lebanon, and Palestine, where the majority of the population spoke some dialect of Aramaic and where Arab tribes had been present in the vicinity, the local languages were for the most part replaced by Arabic. In Iraq, Arabic became the dominant language among a population who spoke Aramaic and Persian. A more gradual process of Arabization occurred in Egypt where Coptic and Greek were the two dominant languages. In North Africa, where Berber dialects were spoken and still are used in some parts, the process of Arabization was less complete. Persia and Spain, however, retained their respective languages.<sup>13</sup>

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<sup>9</sup> Irene Thompson. "Arabic overview." Available at: <http://aboutworldlanguages.com/arabic-overview>. accessed, 25/07/2015.

<sup>10</sup> Samir Abu-Absi. "The Arabic Language." <http://history-of-islam.com/>. Accessed 27/07/2015.

<sup>11</sup> Said Ramadan, *Islamic Law its Scope and Equity*, Lahore: A S Noor, 1970, 42.

<sup>12</sup> Abu-Absi, (2015).

<sup>13</sup> Abu-Absi, (2015).

In the early days of the Empire, the majority of the population would not have been Arabic monolinguals. The interaction of Arabic with other languages led to the borrowing of new vocabulary which enriched the language in areas such as government, administration, and science. This, in addition to the rich internal resources of Arabic, enabled the language to become a suitable medium for governing a vast empire.<sup>14</sup>

Under the Umayyad dynasty (661-750 A.D.), with Damascus as the center of power, Arabic continued its tradition of excellence as the language of poetry, enriched its literature with translations from Persian and other languages, and acquired new terminology in various fields of study which included linguistics, philosophy, and theology.<sup>15</sup> Under the Abbasid rule from Baghdad (750-1258 A.D.), Arabic literature reached its golden age as linguistic studies reached a new level of sophistication. Many scholars, Arabs and non-Arabs, Muslims, Christians and Jews, participated in the development of intellectual life using Arabic as their preferred language. A systematic effort at translation from various sources had made Arabic the most suitable scholarly medium of the day in disciplines such as philosophy, mathematics, medicine, geography and various branches of science. Many of the words readily borrowed during this period were easily assimilated into Arabic and later transmitted to other languages.<sup>16</sup>

A period of decline began in the eleventh century as the result of several factors including the start of the Crusades, the political unrest in Spain, Mongol and Turkish invasions from the East, and internal divisions within the Empire. This marked a period of relative stagnation for Arabic although its status as the language of Islam was never threatened.<sup>17</sup>

In pre-Islamic times, Arabic script suffered from a number of deficiencies including the lack of letters for certain consonant sounds and the absence of any system for indicating vowel sounds. The Arabic alphabet is simple and concise. It has 28 letters, all consonants - with the exception of three used for long vowels. The other vowels are supplied by 14 diacritical marks which also serve as noun and verb modifiers. These are placed above or below the consonants to bring out the correct pronunciation of the words. The present system is the result of some major reforms which were introduced when the script was found inadequate as a tool for recording and preserving the Holy Quran. This close association with the Quran bestowed a sanctified status

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<sup>14</sup> Abu-Absi, (2015).

<sup>15</sup> Abdulmajeed Hassan Bello, *Islam and the Conception of Islamic State*. Saarbrucken: Lap Lambert Academic Publishing, 2015, 122.

<sup>16</sup> Bello. (2015), 127.

<sup>17</sup> Bello. (2015), 128-129.

on a script that arose from a humble beginning. This enabled it to develop into a unique art form not equaled by any other calligraphic tradition.<sup>18</sup>

With the spread of Islam, many non-Arabs found themselves learning Arabic in order to be able to read the Quran. Thus many languages which came under the influence of Arabic through Islam adopted the use of the Arabic script. These languages, most of which were non-Semitic in origin, included Farsi (Persian), Pashto, Kashmiri, Urdu, Sindhi, Malay, and others.<sup>19</sup> There is no doubt that the survival of Arabic through the ages is primarily due to the survival of Islam. However, credit must be given to the inherent qualities of Arabic itself. Arabic is a vigorous, trenchant language. Its vitality, inherited from the rough days of the desert, has enabled it to withstand hardship of time.<sup>20</sup>

#### DIALECTAL VARIETIES

Several regional dialects of Arabic exist, some of which may not be readily intelligible to speakers from other regions. To varying extents, these language varieties show differences in grammar, pronunciation, and vocabulary. Arabic speakers refer to these spoken varieties as Colloquial (spoken) Arabic, العامية (*al-`ammiyya* (East) or الدارجة (*ad-dārija* (West) this term refers to the regional varieties used in everyday communication and popular culture. They are used in films, plays, and even in some literature. All colloquial varieties are acquired by children as their first language, as opposed to the literary or classical *fusha* language which is acquired through formal instruction. This linguistic duality, commonly referred to as diglossia in the linguistic literature, involves the complementary use of two varieties (high and low) in specific contexts. Modern Arabic has not undergone significant phonological or syntactical change in its literary form. Even though there are a myriad of dialects in the Arab-speaking world, *fusha*, a simplified version of Qur'anic Arabic, unites the people.<sup>21</sup>

The high variety is Classical Arabic; the ultimate example of which is the language of the Quran, is used in formal situations. The low variety refers to various regional vernaculars or colloquial varieties used for everyday interactions. While this often-cited distinction between Classical and Colloquial Arabic may be useful,

<sup>18</sup> Abu-Absi, (2015).

<sup>19</sup> Alan S. Kaye, "Adaptations of Arabic Script," in Peter T. Daniels and William Bright, (Eds). *The World's writing Systems*. New York and Oxford: Oxford University Press, 1996 743-62.

<sup>20</sup> El-Sayed Yacoub Bakr, *Arabic by Radio*. Cairo: the Arab states training centre for education for community development, ii

<sup>21</sup> Thompson. (Arabic Overview).

it merely represents two poles of a continuum which more accurately characterizes a complex linguistic situation. Two other varieties are Modern Standard Arabic and Educated Spoken Arabic. Modern Standard Arabic, a continuation of Classical Arabic with some modifications in grammar and an extensive addition of modern vocabulary, is the language of written communication throughout the Arabic-speaking world. When educated speakers from different dialectal backgrounds communicate orally, they tend to use what is sometimes known as Educated Spoken Arabic a mixture of colloquial speech and Modern Standard Arabic.<sup>22</sup>

More importantly, Arabic is an international language and the 10<sup>th</sup> most important internationally.<sup>23</sup> At the contemporary level, Arabic is socio-politically on the sprawl across international borders. The spate of spread and importance of Arabic, for example, is evident in the very frequent use of Arabic on the electronic media by the BBC, the Voice of America, and the Voice of Nigeria. The Dutch, French, German and Russian national radio stations continually air Arabic versions of their programmes regularly over their network. Besides, (High Arabic version of CNN's programme), beamed to the Arabic speaking world, is a measure of international recognition Arabic is receiving across the world.<sup>24</sup> The numerous all- Arabic satellite transmitting stations beaming programmes to the world give credence to the continuous rise of Arabic internationally.<sup>24</sup>

Currently, Arabic is being used as one of the languages at regional groupings as the African Union (AU) and the Economic Community of West African States (ECOWAS). It is constantly attracting world attention. The political state of the Middle East at the moment has made the Arab world (and by extension Arabic) receive more international attention than ever before. Currently, Arabic is causing ripples across the world, especially, in the United States of America, as a language of ideological, political and economic resistance. Following the September 11<sup>th</sup> 2001 terrorist attack on the World Trade Centre and the Pentagon, the US government placed Arabic in the rank of languages to be studied for strategic reasons.<sup>25</sup>

#### THE INFLUENCE OF ARABIC ON OTHER LANGUAGES

As both the language of Islam and a medium of culture and learning for five centuries, Arabic came into close contact with several other languages. Asian and African languages such as Urdu, Turkish, Farsi, and Hausa

<sup>22</sup> History of Arabic language تاريخ اللغة العربية [http://arabicwithoutwalls.com.ucdavis.edu/aww/.../ab1\\_culture\\_history.htm](http://arabicwithoutwalls.com.ucdavis.edu/aww/.../ab1_culture_history.htm) Accessed, 27/07/2015.

<sup>23</sup> Ali Mazrui. "Islam and the English Language in the East and West Africa." In W. W. H. Whitely. (Ed). *Language Use and Social change: the problem of Multilingualism with Special Reference to Eastern Africa*. Oxford: Oxford University Press, 186.

<sup>24</sup> S. A. Aje. "A Survey of Sociolinguistic Setting of Arabic in Nigeria."

<sup>25</sup> Aje. (2015).

borrowed a large number of Arabic words dealing with various aspects of culture, particularly those related to Islam. Spanish and Portuguese came into direct contact with Arabic as a result of the Arab conquest. European Crusaders from various linguistic backgrounds interacted with Arabs and acquired words relating to food, clothing, and other aspects of ordinary living. As Europe emerged from its dark ages, it turned to Arabic writings for enlightenment and rediscovered classical Greek and Latin texts preserved in Arabic translations. Even languages like English, which had relatively little direct contact with Arabic, borrowed many Arabic words, often indirectly through Portuguese, Italian, and Spanish. A linguistic study of the contributions of Arabic to English cites over 2,000 English words either of Arabic origin or borrowed and assimilated into Arabic before being transmitted to other languages.<sup>26</sup>

#### ARABIC LANGUAGE IN THE STUDY OF SHARI'AH

There is no language that is superior to another. A certain language is viable to the extent that it can encompass the various needs of the people who speak it. As such needs expand in scope or multiply in number, the medium will naturally expand and improve by borrowing existing terms and words from other languages or through the coinage of new terms and words.<sup>27</sup> Arabic, as mentioned earlier, like other languages is a medium of communication. It is not a sacred language as some believe. By origin it is believed to have come into existence around three thousand years ago, though its writing appeared much later. Some Muslims scholars used to believe that Arabic came from Allah and cite the verse, "*And He Taught Adam all the names.*"<sup>28</sup> The majority of scholars, however, believe that the verse refers to Allah instructing Adam what things are called and how he could use them. The word 'all' used here does not imply absolute totality. It simply means all that was necessary. Some scholars think that God taught Adam the names of different things and objects, i.e., He taught him the principles of language. There is no doubt that man needed language in order to become civilized and God must have taught Adam its principles.<sup>29</sup> After all, we know that the Arabs are descendants of Isma'eel and Ibrahim who lived at a time when Arabic was not used.<sup>30</sup>

Arabic, however, is very unique. It is the language of the Qur'an and Sunnah. It is the medium through which the Islamic concepts and laws were conveyed to us. It is impossible to know what Allah wants us to do without knowing and understanding Arabic. Nobody can claim to know why Allah selected Arabic for His final revelation. Allah says: "*Allah knows best where, or to whom, He should reveal His Message.*"<sup>31</sup>

The Arabic language has certain characteristics. One of them is that it is derivational, rendering it as a language

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<sup>26</sup> Abu-Absi, (2015).

<sup>27</sup> Horton, (2015).

<sup>28</sup> Qur'an, 2:31

<sup>29</sup> Malik Ghulam Farid. (Ed). *The Holy Qur'an, English Translation & Commentary*, Rabwah: the Oriental and Religious Publishing Corporation Ltd, 1969, 24.

<sup>30</sup> Horton, (2015).

<sup>31</sup> Qur'an, 6:124.



where a *Mujtahid* can seek the *Illah* or reasons behind the law and thus extend the *Illah* to other situations to apply the law. Another fascinating quality of Arabic is in its richness in words which describe human actions and feelings while lacking names of objects. As a matter of fact, many Arabic words describing objects have their etymological roots in other tongues like Persian, Hindi, and Ethiopian. The Arab who lived in the desert with very few objects and many actions was compelled to deal with the harsh nature of the desert, managed to produce a language capable of describing human thought and actions in a clear manner. Life in the desert continued to be an inspiration for those who sought oratory skills and eloquence for many generations.<sup>32</sup> When Prophet Mohammed was born, his mother sent him to the desert to live amongst the nomads for some time. These qualities cannot classify the Arabic language as part of the Islamic thought. It is the legal aspect which classifies the Arabic language as such.<sup>33</sup> Importance and relevance of the Arabic language to the Islamic study can be divided into three aspects:

**a) Fundamental beliefs**, the Arabic language here is not relevant. One can become a Muslim and believe in Allah, His Angels, Messengers, Revelation, Day of Judgment, simply by pondering about the creation of Allah and accepting what he or she is asked to believe in.

**b) Practice**, to practice Islam, one needs to know a certain amount of Arabic, such as in performing the act of worship (e.g., *Salah* or *Hajj*);<sup>34</sup>

**c) Islamic law**, Arabic is required for the study of Islamic law, '*Usul ul Fiqh* and *Hukm Shari'ah* (the body of laws). Muslim scholars mastered Arabic, its syntax, semantics, vocabulary, grammar, various modes of usage, and rhetoric as a prerequisite for *Ijtihad* or independent reasoning.<sup>35</sup>

Since Islamic law deals with all aspects of life; social and individual, economic and cultural, and since the Qur'an and *Sunnah* constitute the foundation of Islamic civilization, any serious study of Islam should include the study of Arabic. The Arabic which is meant here is the classical Arabic along with its structure. The study of colloquial Arabic of a certain dialect or vernacular is without value in this regard.<sup>36</sup> The Classical Arabic language is the medium by which revelation becomes accessible, thus applicable in life. The neglect of Arabic language led the Muslims to a situation in which they were not able to derive laws from the Qur'an and *Sunnah* and thus apply Islam. It eventually led to the closure of the doors of *Ijtihad* and the opening of the doors of *Taqleed* or imitation.<sup>37</sup> At one point, *Ijtihad* became impossible and as a result, new issues and circumstances were either

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<sup>32</sup> Horton, (2015).

<sup>33</sup> Horton, (2015).

<sup>34</sup> Horton, (2015).

<sup>35</sup> Horton, (2015).

<sup>36</sup> Horton, (2015).

<sup>37</sup> Horton, (2015).

left out without knowing the Islamic views on them or were accepted as being Islamic only because there is no direct evidence in Islam for or against them.<sup>38</sup>

The Arabic language is needed to deduce solutions from the *Shari'ah* for today's needs. The principles of interpretation of the texts of the Qur'an and the *Sunnah* depend mostly on Arabic grammar and semantics. The usage of the words in their primary or tropical meaning, the denotation of the general and particular meaning of the words, and similar other questions have been borrowed from the science of the Arabic language.<sup>39</sup>

Some people argued that there is no need for giving this much importance to the Arabic language to understand the Qur'an and *Sunnah* as the Qur'an explains itself, or by Hadith of the Prophet. In other words, a verse is explained by another verse or Hadith. Hence, depending on the Arabic language to this extent is unnecessary. As a consequence of this, there appeared some books like 'Explaining the Qur'an with the Qur'an'. Some other people said that there are no metaphors مجاز in the language or in the Qur'an.<sup>40</sup> As for the first statement, that the Qur'an explains itself, or by the narrations of the Prophet (Hadith) the one who contemplates on it will find it is incorrect for the following reasons:

1. Not all verses are explained by another verse or a Hadith. Rather very few are explained by other verses or Hadith, such as:

إِنَّ الْإِنْسَانَ خُلِقَ هَلُوعًا  
إِذَا مَسَّهُ الشَّرُّ جَزُوعًا  
وَإِذَا مَسَّهُ الْخَيْرُ مَنُوعًا

"Verily, man is created impatient and miserly. When evil touches him he is full of lamentations, but when good falls to his lot, he is niggardly."<sup>41</sup> Here the verse explained the meaning of the word 'هَلُوعًا' that it is the one who is:

إِذَا مَسَّهُ الشَّرُّ جَزُوعًا  
وَإِذَا مَسَّهُ الْخَيْرُ مَنُوعًا

"When evil touches him he is full of lamentations, but when good falls to his lot, he is niggardly";

وَأَقِيمُوا الصَّلَاةَ

"And observe prayer . . ."<sup>42</sup> which was explained by Prophet in the Hadith on the meaning of prayer.

2. Those verses that are explained with other verses and Hadith are few. The explanation coming in the other verse or Hadith cannot be understood except with the Arabic language in which the verse was sent down, or in

<sup>38</sup> Horton, (2015).

<sup>39</sup> Ahmad Hasan, *the Principles of Islamic Jurisprudence*. New Delhi: Adam Publishers & Distributions, 2008, 14.

<sup>40</sup> Shaykh Ata bin Khalil Abu Rishta. "Importance of Arabic language." Available at: <http://www.islamicrival.com>. Accessed, 27/07/2015.

<sup>41</sup> Qur'an, 70:19-21.

<sup>42</sup> Qur'an, 2:43.

which the Hadith was spoken. These two matters, that not all verses are explained by other verses and Hadith, and that the verse or Hadith that is explaining, is itself in need of the Arabic language to realize the correct understanding. These two matters show incorrectness of the arguments of those who say that the Qur'an is explained by itself or by a Hadith, and that there is no need for giving this much importance to the Arabic language to understand the Qur'an correctly.<sup>43</sup>

As for the second statement that there are no metaphors (مجاز) in the language or in the Qur'an, those that say it are fall in to two groups:

- a) A group that views that there is real meaning (حقيقة) and metaphor (مجاز) in the language, but there is only real meaning (حقيقة) in the Qur'an.
- b) A group that views that there is no metaphor (مجاز) in the language or in the Qur'an. Rather all that came was the Arabs usage of terms and meanings, and all of the real meaning (حقيقة) in the language and in the Qur'an are the same.

As for the first group, their statement cannot be used as a proof, because the one who establishes that the metaphorical meaning (المجاز) exists in the language, must also affirm that it is in the Qur'an as well. Allah says: *“وَهَذَا لِسَانٌ عَرَبِيٌّ مُبِينٌ”* **“We sent it down as an Arabic Qur'an;”**<sup>44</sup> *“This is Arabic tongue plain and clear,”*<sup>45</sup> Therefore it is Arabic in its language. As long as the Arabic language contains the metaphorical meaning (المجاز) and it is used in the language of the Arabs, in their styles and speech, then the Qur'an which was sent down in the language of the Arabs, must also contain the metaphorical meaning (المجاز). This is from one perspective. From another perspective, the Qur'an actually does contain metaphorical speech, and no one denies this except someone who is arrogant.

#### METAPHORICAL EXPRESSIONS IN THE QUR'AN

*“يَجْعَلُونَ أَصَابِعَهُمْ فِي آذَانِهِمْ”* **“They put their fingers in their ears;”**<sup>46</sup> is using fingers (الأصابع) for other than what it was originally meant for, i.e. a part of the fingers, the tips, as this is what is put into the ears. *“وَأَسْأَلِ الْقَرْيَةَ”* **“and ask the village;”**<sup>47</sup> is a metaphor (مجاز), because the walls and buildings of the village are not the one who is asked, rather its people are asked, i.e. *“ask the people of the village”*. *“فَسَأَلَتْ أَوْدِيَّتُهُ بِقَدَرِهَا”* **“and the valleys flow according to their measure;”**<sup>48</sup> is a metaphor (مجاز), because that which flows in reality is not the valleys i.e., not the hollowed out piece of the earth, rather it is the water that is in the valley i.e., *“and the water that flows in the valleys”*. *“فَتَحْرِيْرُ رَقَبَةٍ مُؤْمِنَةٍ”* **“Freeing the believing neck;”**<sup>49</sup> is a metaphor (مجاز), because freeing is for the believing

<sup>43</sup> Abu Rishta, (2015).

<sup>44</sup> Qur'an, 12:2

<sup>45</sup> Qur'an, 16:103.

<sup>46</sup> Qur'an, 2:19.

<sup>47</sup> Qur'an, 12:8

<sup>48</sup> Qur'an, 13:17

<sup>49</sup> Qur'an, 4:92.

slave, not only for his neck, so what is intended is not the neck لَأَعَصِرُ خَمْراً”<sup>50</sup> “I saw myself pressing wine;”<sup>50</sup> is a metaphor (مجاز), because that which is pressed are the grapes. Wine (خمر) was mentioned but grapes were wanted, i.e. what was wanted from the term is not the real meaning (الحقيقة).

The *Qur’anic* text, although it is the Word of God protected from corruption and human interference, is expressed in human language which is the Arabic used at the time of revelation of *Qur’an* by the Arabs. Despite its miraculous clarity, its message could be, and has been, misunderstood by readers on many occasions, in spite of their good intentions because of their human limitations. There was an indisputable solution to the problem of interpretation of *Qur’an* in the person of the Prophet so long as he was alive.<sup>51</sup> He clarified all misunderstandings about the message of the *Qur’an* and *Sunnah* and gave unquestionable verdicts on disputes arising in that connection. Indeed, as mentioned earlier, it was an important part of his Prophetic obligation to clarify the message of the *Qur’an*. With his demise, that important privilege was lost to the Muslims. Ever since, Muslim scholars have been unable to agree on many, if not most, of the important issues of Islamic jurisprudence. These differences are neither surprising nor regrettable. In the absence of a general agreement, however, it is vital to decide clearly how to deal with them individually as well as collectively, but before that, a word about the significance of these differences.<sup>52</sup>

Anyone familiar with the work done on the *Shari’ah* in the last fourteen hundred years will not hesitate to agree that juristic differences amongst Muslims scholars are a general rule rather than an exception. The four famous schools of Islamic jurisprudence are named after the illustrious jurists who were the originators of their respective schools of thought. Although they all acknowledge that the *Qur’an* is the first source of the *Shari’ah* followed by the *Sunnah* of the Prophet, there are still considerable differences in the principles they have derived from these original sources. Amongst these schools, the Hanafites rely mainly on analogy (*Qiyas*) and social utility (*Istihsan*). To the Malikites, an authentic *Hadith* from the Prophet’s companions is more reliable than *Qiyas*. Moreover, to them, of all the reports about the practice of the Prophet, the more reliable are those which are in compliance with the customs and traditions of the inhabitants of *Madinah*, the Prophet’s city. The Shafites acknowledge the superiority of *Ijma’* (consensus) over a *Hadith* transmitted only by a few persons or not confirmed by several narrators. The Hanbalites’ approach is not very different from the Shafites’ except that in their view authentic *Hadith* is superior to *Qiyas*, *Ijma’* or the Prophet’s companion’s own interpretation. Moreover, a part of the differences among these schools of jurisprudence are attributable to the fact that they represent attempts to interpret the *Shari’ah* under different set of circumstances.<sup>53</sup>

*Taqlid*, despite being the predominant way of deciding about a religious verdict amongst a large number of the present-day Muslims, cannot be justified from the teachings of the *Qur’an* and *Sunnah*. First, because it implies

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<sup>50</sup> Qur’an, 12:36.

<sup>51</sup> Abu Rishta, (2015).

<sup>52</sup> Abu Rishta, (2015).

<sup>53</sup> Ramadan, (1970), 96-97.

that those following this approach have taken a decision not to use their own intellectual abilities. That is clearly against Qur'an "Will they not, then, meditate upon the Qur'an; will they not, then, ponder over the Qur'an."<sup>54</sup> Second, because it has to be assumed by those adopting this approach that the scholar they have chosen to follow is fault-free. There is none, according to the Qur'an, who is, apart from the Prophets, divinely guided and, therefore, fault-free:

Allah chooses His messengers from among angels and from men;<sup>55</sup>

Say, I know not whether that which you are promised is nigh, or whether my Lord has fixed for it a distant term; He is the knower of the unseen; and he reveals not his secret to anyone, except to a messenger of his whom he chooses. And then he causes an escort of guarding angels to go before him and behind him that he may know that his messengers have delivered the messages of their lord. And he encompasses all that is with them and he keeps count of all things.<sup>56</sup>

Qur'an itself condemns the approach of those who choose to follow others instead of using their own intellect in religious matters. Allah says:

And some of them are illiterate; they know not the book but their own false notions and they do nothing but conjecture. Woe, therefore, to those who write the book with their own hands and then say, this is from Allah, that they may take it a paltry price. Woe, then to them for with their hands have written, and woe to them for what they earn.<sup>57</sup>

#### BASIC SOURCES OF SHARIA'H

*Shari'ah* or Islamic law, in whichever sense we take the term, is sometimes unclear, both in its content and in its historical order. Perhaps the main reason that contributes to this lack of clarity is that it is religious and therefore carries with it all the ambiguity that any world religion entails. Being Islamic makes it so diversified in its texture, viscosity and characteristics that it often carries a claim to originality and sole right of production. As Izzi Dien observes *Shari'ah* is like oil, it is sometimes almost impossible to trace its origin and the cradle of its inception. However, like oil, it generates human life, even if it is highly inflammable when not treated with care and respect.<sup>58</sup> Trying to study *Shari'ah* with preconceived ideas of Islamic love or non- Islamic hate can lead to false conclusions. This represents the second point of difficulty in understanding *Shari'ah*. Muslims see it as the word of God and therefore divine and beyond question. This attitude often fogs the vision and leads to grave misunderstanding of the real objectives and visions of the law. Western scholars view it as fabricated or at best

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<sup>54</sup> Qur'an, 4:82; 47:24.

<sup>55</sup> Qur'an, 22:75.

<sup>56</sup> Qur'an, 72:25-

<sup>57</sup> Qur'an 2:78-9.

<sup>58</sup> Mawil Izzi Dien, *Islamic law from historical foundations to contemporary practice*. Notre Dame: University of Notre Dame Press, 2004, x.

a human phenomenon that needs to be studied. There is no doubt that each approach has its own strengths and prejudices, whether historical or methodological; and there is perhaps a need to combine the two approaches to gain a full sense of *Shari'ah*.<sup>59</sup>

What most people do not understand or know is that as in English Law, *Shari'ah* develops through its Islamic jurisprudence (*Fiqh*) (the science or philosophy of law) as English jurisprudence in English Law. The misconception is based on the mistake that people do not differentiate between the two. They think Islamic jurisprudence is *Shari'ah* known as Islamic law and that's a blatant mistake which needs to be rectified. The Arabic word *hukm* (pl. *ahkam*) means a "rule". This may be a rule of any kind. Thus, when we wish to consider a rule of Islamic law, we qualify it with the term *Shar'ī* (legal), or a rule belonging to Islamic *shari'ah* or law. It is the *hukm shar'ī* that is defined by Muslim jurists, when they attempt to answer the question: What is Islamic law? They define it as: *A communication from Allah, the exalted, related to the acts of the subjects through a demand or option, or through a declaration.*<sup>60</sup>

The point to notice about this definition is that *hukm* or a rule of law is a communication from Allah. This means that it is not treated merely as a command. It also means that a communication from anyone else cannot be considered as a *hukm*, be a ruler or someone else.<sup>61</sup> Islamic law is therefore, the expression of Allah's command for Muslim society known as the *Shari'ah*, a derivative of a root Arabic word meaning track or road. This Law constitutes a divinely ordained path of conduct that guides the Muslims towards a practical expression their religious convention in this world and the goal of divine favour in the world to come.<sup>62</sup>

*Shari'ah* to the Muslims is basically a divine Law, having its origin in the revelation of Allah as embodied in the Qur'an, and is also derived, inter alia, from the *Sunnah*, the precedents, the practices and precepts of Prophet Muhammad, which explain, expound and enunciate the Qur'an. To the Muslims *Shari'ah* is not only divine in its origin, but it is *hukm* (rule) in its subject matter and application, dynamic in its nature, democratic in its concept, socialistic in its pattern, ideal in its principles and scientific in its methods. The *Shari'ah* is concerned as much with ethical standards as with legal rules indicating not only what man is entitled or bound to do in law, but also what he ought, in conscience, to do or refrain from doing. Thus, *Shari'ah* is not merely a system of Law, but a comprehensive code of behaviour that embraces both private and public activities.<sup>63</sup>

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<sup>59</sup> Izzi Dien, (2004), x.

<sup>60</sup> Imran Ahsan Khan Nyazee, *Theories of Islamic Law*, Kuala Lumpur: Islamic Trust, 2002, 63-64

<sup>61</sup> Imran Ahsan Khan Nyazee, (2002), 64

<sup>62</sup> Abdulkarim Zaidan, *Al Mdkhal Li-dirasat Shari'ah al-Islamiyyah*, Alexandria: Dar Umar bin Khatab, 1969, 38.

<sup>63</sup> Sayed, H.A. Malik, "Shari'ah: A legal system and a way of life," in Oloyede Abdul-Rahmon (Ed). *Perspectives in Islamic Law and jurisprudence*. Ibadan: polygraph Venture Limited, 2001, 25-26.

The main source of the Islamic Law is the Qur'an as revealed to the prophet Muhammad. The Islamic law comprises of two parts (1) permanent and unalterable. Those edicts laid down by the Qur'an and the *Sunnah* of the prophet, and (2) those which are subject to modification according to the needs and requirements of the changing times, but within the framework of part (1). The part (2) endows the Islamic Law with wide possibilities of growth and advancement. This is to say that, the rules of the *Shari'ah* are settled, but their application to the incidents and events sometimes changes, and as a result the legal opinion (fatwa) also changes and varies from jurist to jurist, time to time. While the rule of the *Shari'ah* remains the same. The divine law is settled, but the legal opinions of those who apply this rule to incidents and legal cases change on account of a ground or basis found in a certain case during a period or in the eye of a particular jurist or for non-existence of this ground or basis in the eye of another jurist.<sup>64</sup>

When we say that the Qur'an, the *Sunnah*, consensus, and analogy are the source of the *Shari'ah*, this means that they are the source and proofs which are consulted for the acquaintance with the rule of *Shari'ah*. The same is said about the common law that, its source are the texts, custom, and rules of equity.<sup>65</sup> Thus it is cleared that not all the laws which form the subject matter of Islamic jurisprudence (*fiqh*) rest on injunctions expressed clear-cut terms of command and prohibition in Qur'an and *Sunnah*. By far the large parts of (*fiqh*) rulings are the outcome of various deduction methods or reasoning, along which *Qiyas* (deduction through analogy) figures most prominently. The great jurists (*fuqaha*) of the past arrived at their legal finding on the basis of their study of Qur'an *Sunnah*, and there is no doubt that in the instant of the foremost exponents of *fiqh* this study was extremely deep and conscientious. Muhammad Asad in support of this assertion states:

Originally, all such rulings were intended by their authors to facilitate the application of *Shar'i* principles to specific questions. In the course of time, however, these rulings acquired in popular mind a kind of sacrosanct validity of their own and came to be regarded by many Muslims as an integral part of the *Shari'ah*, the canon law itself.<sup>66</sup>

Thus, while the *Shari'ah* outlines the area within which Muslim life may develop. God has conceded to human this area, an open road for temporal legislation which would cover the contingencies deliberately left untouched by the texts of Qur'an and the *Sunnah*. Therefore whatever is mentioned in the Quran and the *Sunnah* is *Shari'ah* (Islamic law). But the mechanism employed in its application is *Fiqh* Islam jurisprudence or legal opinions of the four Jurists who founded the four schools of thought, a view by far thought to be parallel to the view held by the *Shia* Muslims of Iran. A Muslim will therefore either belong to any of those schools in

<sup>64</sup> Hassan, H.H. *An Introduction to the study Islamic Law*. New Delhi: Adam Publishers and Distributions, 2005, 6.

<sup>65</sup> Hassan, H.H. (2005), 6.

<sup>66</sup> Muhammed Asad, *the Principles of State and Government in Islam*. (Kuala Lumpur: Islamic Book Trust, 2001), 11.

practicing the religion and applying the *Shari'ah*. These thoughts are named after their founders; Hanafi, Maliki, Shafii, and Hanbali.

In Saudi Arabia they apply Hanbali, in Yemen they apply a blend of Zaidi and Shafa'i and in Africa dominated by Shafi and Maliki. And as for the Shia in Iran they follow Jafri school of thought. That is not really the Islamic Law and an individual is not allowed to apply all these thoughts at the same time on the same issue but he has to follow one of either or where there is a consensus of opinion on that particular issue. All sources of *Shari'ah* are preserved in Arabic language. The contributions of jurists to *Shari'ah* during the last fourteen centuries have been in Arabic. Hence a sound knowledge of Arabic is essential to comprehend the inherent values of *Shari'ah* and its rich literature.<sup>67</sup> The objectives behind learning *Shari'ah* are to be seen in the light of the Qur'anic ordinance:

It is not possible for the believers to go forth all together, why, then, does not a party from every section of them go forth that they may become well-versed in religion, and that they may warn their people when they return to them, so that they may guard against evil.<sup>68</sup>

The word *fiqh* means jurisprudence. Here, as in other places, jurisprudence means investigation into wider contexts of law and examination of such question as: what are rights and what duties? How are they used? How do they work? This is one aspect of the Qura'nic injunction in the verse. The other aspect is the dispensation of justice.<sup>69</sup> This dual duty imposed on Islamic lawyers is surely the real objective of teaching *Shari'ah*. All original sources and references of this law are documented in Arabic language. If an Islamic lawyer does not acquire the knowledge of Arabic then he is placing himself in the mercy of translated works thus he can never claim originality in his findings. His position is worse than a *Muqalid* مقلد, imitator, for he is handicapped in his field of study.<sup>70</sup> Allah says: “and we have not sent any messenger except with revelation in the language of his people”.<sup>71</sup>

#### LANGUAGE DILEMMA IN THE SHARI'AH

<sup>67</sup> Muhammad Ibrahim Surty, “Al- Shari'ah: Arabic and methodology”, in Syed Khalid Rashid, (Ed). *Islamic Law in Nigeria*. Lagos: Islamic Publication Bureau, 195.

<sup>68</sup> Qur'an, 9: 121.

<sup>69</sup> Abdul Qadir Zubair, “the importance of Arabic language in the study of Shari'ah”, in Syed Khalid Rashid, (Ed). *Islamic Law in Nigeria*. Lagos: Islamic Publication Bureau, 204.

<sup>70</sup> Zubair, 204.

<sup>71</sup> Qur'an, 14:5



*Shari'ah's* language is Arabic in which it was revealed and which the language of the prophet Muhammad is. Thus, the understanding of the rules of law from the Qur'an and the *Sunnah* can only be derived if stylistic peculiarities of Arabic language, its lexical meanings and structure are understood. Not only because *Shari'ah* is articulated in this language but its logic is, also, controlled by it. This is what inspired scholars of *Usul al-Fiqh* أصول الفقه to examine the structure and usage of the Arabic language. Their findings formed the basis of the regulations of philologists of this language, to comprehend the legal texts of *Shari'ah*. These are called the linguistic principles in the science of *Usul al-Fiqh* أصول الفقه.<sup>72</sup> Al-shatibi's writings contain frequent affirmations of the importance of respecting and abiding by the limits and rules of the Arabic language if one is to understand the objectives behind Islamic legal texts.<sup>73</sup>

People tend to think in term of their language structure, and words are not only tools to formulate thought but also means of controlling it. To show the tragic implication of using two languages as medium of legal system like *Shari'ah*, we will expatiate on linguistic principles in *Usul al-Fiqh*. The linguistic principle in *al-Mushtarak*, i.e. a word that has more than one meaning and its intendments states thus:

If there is a *mushtarak* word in the legal text and the word is commonly used for literal and legal meaning at the same time, in this case the legal meaning should be applied. And if it is used for two or more literal meanings it will be necessary to apply one of the meanings which got the support of the evidence. It will be invalid to apply the two or more meanings at the same time.<sup>74</sup>

From the above we can see that a word can simultaneously have more than one meaning both literally and legally. No problem can arise if the matter in question is legal; the legal meaning prevails. The problem only comes up where there is no definite legal meaning attached with the word and it has more than one meaning literally. It may not be so hard to select one meaning suitable to the context, if there is evidence to substantiate it.<sup>75</sup> Example of this is in the verse of Qur'an which says: "As the thief, male or female, cut off his or her hand, a punishment by way of example, from God, for their crime. And God is exalted in power, most wise".<sup>76</sup>

The word for hand used here in Arabic is *yad* يد. In the Arabic usage it is *mushtarak* among three meanings. The first meaning is *al-Dhari* الذراع which means from the top of fingers to the shoulder; the second meaning is from the top of fingers to elbow; while the third meaning is from top of fingers to the wrist. Additional question to

<sup>72</sup> Zubair. (1988), 204

<sup>73</sup> Ahmad Al-Ruysuni, Imam Al-Shatibi's. *Theory of the higher objectives and intents of Islamic law*. Kuala Lumpur: Islamic Book Trust, 2006,267.

<sup>74</sup> Abd al-Wahab Khallaf, *Ilm Usul al-fiqh al-islami*. Cairo: Matba'at al-Nasr, 1986, 199.

<sup>75</sup> Zubair. (1988), 205.

<sup>76</sup> Qur'an, 5:38.

be settled in the verse is whether it is right or left hand.<sup>77</sup> Majority of jurists were able to prove with *al-Sunnah al-amaliyyah*, i.e. practical tradition of the prophet, that the valid meaning for the world is from the top of fingers to the wrist, and that it is the right hand.

The punishment enforced in a number of Islamic countries for the crime of theft is based on the interpretation of the word *اقطعوا* 'eqta'u' of the following verse: "The male thief, and the female thief, you shall cut off their hands as a punishment for their deeds, and to serve as a deterrent from God. God is Almighty, Wise."<sup>78</sup> To determine the correct meaning of 5:38 we need to analyse the key word in the verse. The key word in this verse is the Arabic word *اقطعوا* "eqta'u".

The word *اقطعوا* 'iqta'u' (which is the command form of the word *قطع* 'qata'aa') has been interpreted by the traditional scholars to mean 'to sever'. But the word for sever in Arabic is *بتر* 'batara'. In 108:3 we read the word *ابتر* 'abtar' which speaks of he who has been cut off (his progeny severed). In 5:38 God did not use the word *بتر* 'batara' but used the word *اقطعوا* 'iqta'u'.<sup>79</sup> The act of cutting can simply mean causing a wound or a marking. An example is of one who would be working in the kitchen and then may say "I have cut my hand", this does not mean that he severed his hand!

In order to arrive at a right understanding of the nature of the punishment for theft, it is necessary to know both the literal and metaphorical use of the two words *قطع* 'qata' and *يد* 'yad'. The Arabic expression *qata'a lisana hu* *قطع لسانه* means, he silenced him with argument.<sup>80</sup> And *yad* *يد* among other things means, power and capacity to do a certain thing.<sup>81</sup> Thus, the phrase, *qta yadahu* *قطع يده* metaphorically means, he deprived him of the power to do the thing; or he restrained from doing it.<sup>82</sup> In view of this signification of the two words, the Arabic expression used in the verse may mean, "deprive them of the power to commit the theft or employ any practical means calculated to restrain them from committing theft."

Taking the verse literally, the punishment, prescribed in the verse is maximum punishment and maximum punishment is awarded in extreme cases only, the lesser punishment being the adoption of any practical

<sup>77</sup> Muhammad bin Ai bin Muhammad Al-Shawkani, *Irshadul Fuhul ila thaqiq ilm al- Usul*, Beirut: Muassatul kutub athaqafiyah, 1993, 45 287-288.

<sup>78</sup> Qur'an, 5:38.

<sup>79</sup> Al-Shawkani, (1993), 288.

<sup>80</sup> J. M. Cowan, *The Hans Wehr Dictionary of Modern Written Arabic*. New Delhi: Modern language Services, 1960, 774-775.

<sup>81</sup> Cowan, (1960), 1106.

<sup>82</sup> Farid, (1969), 253.

means by which the offender, is deprived of capacity of, or restrained from committing the offense. In awarding the punishment the nature and scope of all the attending circumstances are also to be taking into consideration. Moreover, the use of the word “*al-sariq*” السارق which is a noun instead of the verb *saraq* سرق he stole implying the sense of intensiveness signifies an habitual thief or, one addicted to theft, is worthy of special consideration.<sup>83</sup>

To confirm the correct meaning, God has given us in the Quran a clear indication in the story of Joseph. When the women, who were the guests of the governor’s wife, saw how handsome Joseph was they cut their hands (12:31). The same word used in 5:38 is used in 12:31. Needless to say these women did not sever their hands. In addition, God gives us in the very next verse (5:39) conclusive evidence for the correct meaning of the punishment for theft. In 5:39 God says that He will relent toward him ‘*yatoob*’ يتوب (redeem) all those who repent and reform. There is no exception given in 5:39 and thus it includes those who have committed theft. The meaning of the word يتوب ‘*yatoob*’ means to forgive and restore to previous state.

The minorities that deviate from this opinion do so because of their reluctance to shift from the philological meaning of the word.<sup>84</sup> The real problem arise where there is no conventional legal meaning attached to the word which is *mushtarak*, no evidence whatsoever to prefer one of the meanings. Since it will be impracticable to apply all the meanings at a time, it is necessary to choose one out of the lot.<sup>85</sup> For example, God says in the Qur’an: “Divorced women shall wait concerning themselves for three monthly periods”.<sup>86</sup> The Arabic word *Quru* قروء which is translated to mean monthly period of women, is *mushtarak*, between the purity after the menses or the menses itself.<sup>87</sup> In this respect, the Islamic lawyer will need to exert his individual reasoning to fish out the meaning appropriate to the situation in hand. Because the matter does not end in choosing one meaning out of the two, it generates many legal implications. For instance, a husband who divorced his wife for nearly three months, but when he thought to call her back to her matrimonial home he found that she was in her third menses. For those who said that *al-Qur’u*, القرء a singular form of *Quru* قروء, means menses, he cannot call her back.<sup>88</sup>

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<sup>83</sup> Farid, (1969), 253.

<sup>84</sup> Ramadan Abdulwadud Abdultawab, *Mabahith fi Usul al-Fiqh*. Cairo: Darul-Huda lil-Tiba’at, 1979, 111.

<sup>85</sup> Zubair. (1988), 206.

<sup>86</sup> Qur’an, 2:228.

<sup>87</sup> AbdulQadr Shihata Muhammad, *Mabahith fi al-Mujmal wal mu-Bubayyin minal kitabi wa sunnah*, Cairo: Darul-Huda liltiba’ah, 1984,245.

<sup>88</sup> Zubair. (1988), 206.

There will necessarily be a new contract of marriage, because the first marriage has lapsed. But for those who opined that *al-Quru'* means the purity after the menses, the husband will have the full right and privilege to call her back without any restriction since she has not entered into the purity. In this situation a handicapped lawyer who is at the mercy of the translator will have no freedom of opinion than to repeat the idea of the translator whose upper-hand over him is simply because of the language.<sup>89</sup> Another example also comes from the preposition which is used in a verse of the Qur'an that says: "O ye who believe! When you stand up for prayer, wash your faces, and your hands up to the elbows, and pass your wet hands over your heads and wash your feet to the ankles".<sup>90</sup>

The words 'and pass your wet hands over your heads'<sup>91</sup> are our concern, there are various translations to these words. Muhammad Muhsin Khan in his translation, interpretation of the meanings of the Noble Qur'an in English language, translated the words as: "rub by passing wet hands over your heads";<sup>92</sup> Muhammad Marmaduke Pickthall, translated them as: "and lightly rub your heads".<sup>93</sup> While in the meaning of the Qur'an, the words were translated as: "and wipe your heads".<sup>94</sup> Unfortunately the translations cannot bring out the real intention. The Arabic version has a letter called *ba'* بَاء and it is *mushtarak* between what the linguists called *ba'al-zaidah* بَاء الزائدة, i.e. additional letter, used for emphasizing the statement, and what they call *Ba'al-Tab'id* بَاء التبعية, i.e. portioning preposition. In the first meaning of this preposition, the injunction will mean that the whole head should be rubbed with water, while in the second meaning the injunction will denote the rubbing of part of the head, and not necessarily the whole head.<sup>95</sup>

With this explanation, an Islamic jurist that lacks the competence of Arabic language will be baffled. In the light of this, it becomes clear that the mastering of *Shari'ah* without Arabic language is not possible.<sup>96</sup> Ibn Taymiyah said:

The Arabic Language is from the Religion, and the knowledge of it is an obligation.  
For surely the understanding of the Qur'an and the Sunnah is an obligation, and  
these two are not understood except with the understanding of the Arabic

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<sup>89</sup> Zubair. (1988), 206.

<sup>90</sup> Qur'an, 5:6.

<sup>91</sup> Fadid, (1969), 244

<sup>92</sup> Muhammad Muhsin Khan. *Interpretation of the meanings of the Noble Qur'an in English language*. Riyadh: Darussalam publishers and Distributors, 1996, 225.

<sup>93</sup> Muhammad Marmaduke Pickthall. *The meaning of the Glorious Qur'an*, Lahore: Accurate Printers, 1974, 97.

<sup>94</sup> Mahmud Y. Zayid. *The meaning of the Qur'an*. Beirut: Dar Al-choura, 1980, 74.

<sup>95</sup> Muhammad. (1984), 90.

<sup>96</sup> Zubair. (1988), 207.

Language, and whatever obligation is not fulfilled except by certain steps then those steps themselves become obligatory to fulfill the initial obligation.<sup>97</sup>

Dr. Muhammad Taqi-ud-Din Al-Hilali, Translator of the Noble Qur'an writes:

It is a pity that many nations are only satisfied in the translated meaning of the Qur'an and Prophet's Sunnah instead of studying the (true) Arabic text of the Qur'an and Prophet's Sunnah... All the religious scholars unanimously agree that the Qur'an and the Sunnah should be taught in the language of the Qur'an (i.e. Arabic language). Translations are mainly meant for informing the people who have not yet embraced Islam to make clear to them the principles of Islam and the teachings of Muhammad (Peace be upon him) and to know its exact facts. When they reach this state and Allah has blessed them with Islam, they must take the Qur'anic and the Messenger's Language (i.e. Arabic) as the only language to understand Islam.<sup>98</sup>

## CONCLUSION

Classical Arabic has a vocabulary in which the meaning of each root-word is so comprehensive that it is difficult to interpret it in a modern analytical language word for word, or by the use of the same word in all places where the original word occurs in the text. An Arabic word is often a full ray of light, when a translator looks at it through the prism of a modern analytical language, he missed a great deal of its meaning by confining his attention to one particular colour. Mastering a language facilitates understanding contents and nuances which cannot be obtained through translation.

Thus, learning or teaching of *Shari'ah* without adequate competency in Arabic language on the part of the teacher and the student may be as futile as dealing with English common law without in the least knowing the English language. Ideally, a *Shari'ah* graduate must be proficient enough in Arabic to comprehend works written in Arabic. This may be made possible in one of the following ways:

- a) A fairly highly level of proficiency is insisted upon as a prerequisite for admission to *Shari'ah* courses;  
or
- b) responsibility is undertaken to teach Arabic up to a sufficient level along with other subjects for the degree.

<sup>97</sup> Taqî ad-Dîn Aḥmad Ibn Taymiyyah, *al-Siyasah al-Shar'iyah*. Cairo: Dar al-Sha'b, 1971, 1/470.

<sup>98</sup> Muhammad Taqi-ud-Din Al- Hilali & Muhammad Muhsin Khan. *The Noble Quran in the English language*, Madinah: king fahd complex for the printing of the Holy Qur'an, 1994, xxiv.

The snag with the first alternative is that, besides denying the opportunity of admission to those who may not have proficiency in Arabic at the entry point but are otherwise qualified and well-motivated for *Shari'ah* studies, a compromise with the quality of students may become inevitable. As it is, partly due to some misgivings and apprehensions regarding career prospects, it is not always easy to attract the better applicants to *Shari'ah* courses. It follows, therefore, that the better course to follow is to teach Arabic language as a full-fledge subject in an intensive manner during the first two or even three years of the programme. This would equip the students in the senior classes to have direct access to the texts and classical works in Arabic and make it possible for them to avoid the translated works of doubtful authenticity.

The primary sources of *Shari'ah* are Quran and *Sunnah* which were written and preserved in Arabic language. In order to understand the Quran and Hadith you should be knowledgeable in Arabic language. Consequently, the correct punishment for theft according to the Most Merciful is to mark or make a wound the hand of the offender so that he would be shamed in front of the people. Severing the hand of the thief would deprive him of his livelihood. As a result, his family and dependants would experience hardship for no fault of theirs! God's law is fair and God's wisdom is unequalled. Applying the correct punishment for theft would give the offender the opportunity to repent and reform, and then he would be able to resume normal life after the cut in his hand heals. On the other hand, severing the hand would be a terminal punishment that cannot be reversed should the offender genuinely wish to repent and reform.

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