

Ibrāhīm ibn Mūsā Abū Ishāq al-Shāṭibī

The Reconciliation of the Fundamentals of Islamic Law (al-Muwāfaqāt fī Uṣūl al-Sharī'a), vol. 1. Translated by Imran Ahsan Nyazee. Reviewed by Raji M. Rammuny. The Great Books of Islamic Civilization. Muhammad bin Hamad Al-Thani Center for Muslim Contribution to Civilization in Association with Garnet Publishing. Reading: Garnet, 2012. Pp. 286. ISBN: 978-1859642689. Paperback. \$34.95.

Al-Muwāfaqāt, a classic fourteenth-century Mālikī text on legal theory, has immortalized its author, Abū Ishāq al-Shāṭibī (d. 790/1388), a scholar from Muslim Spain. Born and raised in Granada and educated by the foremost scholars of his time, his family name points to his ancestral origins in the coastal town of Jātiva, known as Shātibah in Arabic. Shāṭibī's masterful elaboration of the doctrine known as "the purposes of the revealed law" (*maqāṣid al-Sharī'a*) has had a profound impact on modern Islamic thought. Contemporary Muslim revivalists and modernists enthusiastically adopt his insights in order to recast jurisprudence in an ethical register. More orthodox Sunni circles are ambivalent: some adopt it in conjunction with canonical approaches, while others caution that the "purposes" approach might undermine the meticulously-framed hermeneutic paradigm of the canonical law schools.

Shāṭibī appears to have been a man of severe ascetic qualities and lofty scruples. He battled several peers and publicly disagreed with his favorite teacher, Abū Sa'īd Ibn Lubb (d. 1380). He believed that Ibn Lubb was too flexible in his methodology and did not scrupulously follow the preferred Mālikī opinion when he issued fatwās. His protests gained very little support among his peers and he gradually came to feel marginalized. He documented his isolation in lengthy passages in his introduction to *al-Itiṣām*, *The Adherence*, a systematic work on theology that grounded Muslim beliefs and practices in a scriptural paradigm.

Al-Muwāfaqāt was Shāṭibī's attempt to reconcile the theoretical approaches derived from both the Ḥanafī and Mālikī schools by connecting scriptural authority to a strong rationalist paradigm. His enthusiasm for the Ḥanafī insights might not have gained him friends among those Mālikī scholars who believed their school required no further improvement.

Al-Muwāfaqāt is composed of five parts. Part One presents thirteen prologues or postulates that define Shāṭibī's metahermeneutical framework. Part Two details the five purposes of the Shari'ah, namely, the preservation of religion, life, reason, wealth and progeny, and provides an elaborate discussion of

* My thanks to Shawkat Toorawa for his assistance and suggestions, although all errors are mine.

the concept of public interest (*maṣlaḥah*). Part Three elucidates the underlying wisdom of the Shari‘ah and shows how God’s purposes and those of humans work in tandem. Part Four discusses legal indicants and epistemological issues, namely how knowledge is derived from the Qur’ān and the prophetic traditions. Part Five analyzes the construction of authority with a focus on *ijtihād* (qualification to interpret the sources) and *taqlīd* (the obligation to adhere to doctrinal authority).

Shāṭibī designed a tripartite hierarchical structure of public interests (*maṣāliḥ*; sing. *maṣlaḥah*) and viewed it as central to juridical reasoning in Islam. If jurists fail to grasp these public interests, Shāṭibī warned, they risk failing to grasp the purposes behind God’s design of the Shari‘a. He ranked public interests as: (1) necessary (*darūriyāt*), (2) essential (*ḥājīyāt*), and (3) refinement (*taḥsīnāt*). The category of “necessary” advances the cardinal universal values or the five purposes of the Shari‘a. He visualized these cardinal norms as a golden thread that seamlessly ties the fundamentals of faith (*uṣūl al-dīn*) to rules derived from the revealed law (*qawā‘id al-Sharī‘ah*), both of which cement universal claims (*kulliyāt al-millah*) made by the political community of Muslims.

There are several Arabic editions of *al-Muwāfaqāt*. A four-volume edition from Dār al-Ma‘rifā has an introductory note and commentary by ‘Abd Allāh Darāz (1874–1932) and further commentary in the notes by Muḥammad ‘Abd Allāh Darāz (1894–1958). Another fine edition, with introductory comments by Bakr ibn ‘Abd Allāh Abū Zayd and critical editorial work provided by Abū ‘Ubayda Mashhūr ibn Ḥasan Āl Salmān, was published by Dār Ibn ‘Affān in Saudi Arabia in 1997/1417 in 6 volumes. There may be other editions.

The first volume of the Darāz edition has now been translated into English. How I wish I could give the translation my unqualified endorsement. But Imran Ahsan Nyazee’s rendering, despite the claim that it was reviewed by an editor, mars this otherwise important effort. As it stands, the current translation requires careful examination – and a great deal of revision – before it can be recommended. Although parts of the translation are sound, such a classic text deserves, and needs, linguistic as well as stylistic improvements in order to produce a readable and elegant English text.

The Qatar-based Muḥammad bin Ḥamad Āl-Thānī Center for Muslim Contribution to Civilization, dedicated to translating masterpieces of Islamic civilization into the English language, has published several important translations on topics such as history, the Qur’ān and the Ḥadīth, not all of equal quality.¹

1 For another example of inattention to the Arabic original, see Hina Azam’s review of the translation of Suyūṭī’s *al-Itqān* as “The Perfect Guide to the Sciences of the Qur’ān,” Volume 1, *DOMES: Digest of Middle East Studies*, 22:1 (2013), 186.

Translation is a thankless job and mistakes are inevitable; however, in my view accuracy and readability are the compelling goals of translation. When I spot-checked Nyazee's translation against the original Arabic, I found it passable in some places, but in many others he either missed nuances or made errors. In the space of a short review, I can merely highlight a few illustrative errors.

Nyazee has translated volume 1 of the Darāz edition, which includes Shāṭibī's thirteen "*muqaddimāt*" (oddly translated as "concepts") and the "book on rules or assessments (*aḥkām*).⁷ Shāṭibī intended the *muqaddimāt* to serve as guideposts to the rational interpretative postulates that grounded his method. These postulates clarify his operative epistemological and theoretical presumptions.

One wonders how Nyazee arrived at his translation of the following well-known ḥadīth: *naḥnu ummat^{un} ummiyat^{un} la naḥsub^u wa-lā naktub^u al-shahr^u hākadhā wa-hākadhā wa-hākadhā*, which he renders: "We are an unlettered nation, we do not rationalise nor do we write the month like this or this" (p. 14). A more accurate rendition would be: "We are an unlettered community, hence we neither compute (calculate) nor write. The month is like this, and like this, and like this." The Prophet Muḥammad is reported to have gesticulated with his hands using his fingers, "like this," to indicate that the lunar month is sometimes 29 and sometimes 30 days. Nyazee translates part of the editor's note on the same ḥadīth as follows: "It is reported by al-Nasā'ī as well as Muslim giving precedence to writing over rationalising" (Nyazee p. 64, note 93). My Darāz edition of Shāṭibī yields the following translation: "Nasā'ī reports [the ḥadīth] with the wording '*innā ummat^{un} ...*' and Muslim also includes the wording *innā*, and [they both, namely Nasā'ī and Muslim] place [the verb] *naktubu* before *naḥsubu* [in their respective reports]" (Shāṭibī, *al-Muwāfaqāt*, 1:52). Darāz said – and meant – something very different from what Nyazee purports he said.

In the translation of poetry, too, Nyazee errs. Shāṭibī quotes a line of poetry in order to illustrate the multi-vocal meaning of the word *takhawwuf*, "to fear, to dread," which can also mean *tanaqquṣ*, "to diminish, to lessen, to decrease." But the translation of the word *takhawwuf* as *tanaqquṣ* is severely mangled. The line in Arabic reads: *Takhawwafa al-raḥl^u minhā tāmik^{an} qarid^{an} kamā takhawwafa 'ūd al-nab'a^{ti} al-safan*. Nyazee translates this line as: "The thickness of its hump is gradually *thinned* out by the saddle / just as the bow-wood is gradually *straightened* by the bow-maker" (p. 13, emphasis mine). I propose: "The saddlebag (luggage) made the tall-humped fuzzy camel disappear / Just as peeling made the arrow-wood disappear." In the first line the point is that the camel is so overloaded that one can hardly see its hump and its exuberant fuzz. In other words, there is less of the camel to see. In other versions of this line of poetry, in which *al-raḥl* is replaced by *al-sayr* (journey), the poet tries to say that the journey exhausted the high-humped fuzzy camel. Metonymically,

exhaustion shares the same semantic field as “to lessen” and “to diminish.” In the second line, it is unclear why Nyazee renders *safan* – which means “to peel or to abrade” – as “to straighten.” By peeling or abrading a wooden arrow, one shortens and diminishes it, which is the poet’s point. How and why *safan* means “to straighten” we are never told, and what’s more, in the original, there is no mention of a bow-maker! By intervening in this way, Nyazee eliminates the very evidence Shāṭibī wished to adduce.

Nyazee frequently translates perfect-tense verbs as imperfect and present continuous verbs. This creates problems. Consider his translation of the following passage:

Among the most beneficial paths to knowledge that lead to the desired objective is its acquisition from its specialists, the *mutaḥaqqiqīn*, who verify it to perfection and completion. God creates man in a state where he knows nothing. He then instructs him and grants him perception; and guides him to ways of securing his interests in his life in this world. What He teaches him, however, is of two types. One type is necessary and is given to him without knowledge of where it has come from or how. It is instilled in him though the act of creation like feeding at the breast and sucking after emerging from the body into this world. This knowledge pertains to the senses. Further, there is knowledge like his knowledge about his own existence and that the two opposites can never come together, which is knowledge that belongs to the rational faculty.

The second type of knowledge is acquired through instruction. He senses this need in the first instance as he did for movements that were necessary, and this is like vocal sounds, speech in the form of words, and knowledge about the names of things. These pertain to the senses. Then there are rational forms of knowledge in the acquisition of which reason has a role and function to perform. This knowledge pertains to the rational faculty (Nyazee, p. 44).

I propose the following translation of this passage; I underline substantive differences for the benefit of the reader:

The most profitable of paths [to pursue] learning, culminating in strong conviction, is to acquire [it, i.e., learning] from folk reputed for their skills of verification (*mutaḥaqqiqīn*) with perfection and precision. And that follows from the fact that God [at first] created a human being who did not know a thing. Then, He instructed the human being and provided [this being] with insight, thus guiding the human being to [follow] the

beneficial paths in the temporal world. Yet, God's guidance taught to human beings is of two types. One type is intuitive (*darūri*), already existing within a human being without any [discursive] instruction, and without a person requiring [to know] from where [this knowledge originated] and without asking how [it was acquired]. Rather, this knowledge is innate [instinctive] to humans at the very inception of creation. For example, [an infant hungrily] devours its [mother's] breast and suckles it at the very moment it exits the belly [womb] and enters the world: these are among the examples of sensory knowledge. [Additional examples are] a human being's knowledge of his own existence and the fact that contradictory propositions cannot co-exist: these are among the examples of cognitive knowledge.

The [second] type [of knowledge a human being] acquired was by way of instruction, irrespective of whether the person was aware of this [process] or not. For example, [these include] the multiple forms of involuntary movements [made by a human being], such as imitating sounds, uttering words and knowing the names of things, in the realm of sensory acts; and [this type of knowledge includes] speculative learning, in the acquisition of which reason has a scope and consideration, in the realm of rational acts" (al-Shāṭibī, *al-Muwāfaqāt*, 1:91).

An example of another problem: When Nyazee encounters the name of a particular scholar, he renders it "al-Qāḍī ibn al-Ṭīb" (p. 3), when it should be al-Qāḍī Ibn al-Ṭayyib, which is shorthand for Qāḍī Abū Bakr Muḥammad b. al-Ṭayyib b. Muḥammad b. Ja'far b. Qāsim al-Bāqillānī (d. 1013).

In my view, one way to salvage Nyazee's translation of this text would be for the sponsor and/or publisher to hire the services of both a subject specialist and an expert translator to thoroughly review and revise this translation. The remaining three volumes of Shāṭibī's text should be subjected to rigorous criteria before publication.

Ebrahim Moosa

University of Notre Dame

emoosa1@nd.edu