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MAHMŪD SHALTŪT (d. 1963):
MODERN MUSLIM SCHOLAR AND REFORMER

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ABSTRACT

The thesis deals with Maḥmūd Shaltūt (Shaykh al-Azhar 1958-63), an important contemporary Muslim scholar and reformer.

Following a chapter on Shaltūt's life and reform work at the Azhar, the material is divided into three major chapters, on tafsīr, law and social issues.

The chapter on tafsīr describes the innovations of the Muḥammad °Abdūh school of tafsīr and the work of certain key scholars prior to Shaltūt, with a brief description of developments after Shaltūt. A detailed analysis of his methodology with reference to form and content aims to show the extent of his contribution to that development.

The chapter on law is divided into four sections: (1) the sources of law, where we see Shaltūt's theoretical exposition of the workings of the Shari'ah; (2) Shaltūt's fatwas, which illustrate his practical application of those principles; (3) penal law, chosen as a case study because Shaltūt deals with it in considerable depth, and (4) comparative jurisprudence, an area in which Shaltūt took an especial interest in connection with his work for al-tagrīb bayna al-madhāhib (the coordination of the schools of law).

The chapter on social issues initially describes the normative values of Islamic society, then proceeds to describe aspects of the contemporary reality, with reference to the impact of imperialism and the religious response to the needs of the modern

age in general. The ideal and the real are thus juxtaposed in a way which reflects Shaltūt's own writings. In this area comparative analysis is of particular value in view of the widely differing responses to particular issues; we have selected for discussion controversial issues such as polygamy, birth control and financial transactions, in order to highlight those differences.

An attempt has been made throughout to place Shaltūt within the context of modern Muslim scholarship and to define his own contribution in each area.

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INTRODUCTION

The reform work of Muhammad ʿAbduh and his Syrian disciple Rashīd Riḍā has received much attention from specialists in Islamic studies; there is no doubt that Muḥammad ʿAbduh was a pioneer in many respects, and has become known for his conviction that Islam was sufficiently flexible to adapt itself to the modern age. In more recent times, however, there is something of a lacuna as regards studies on individual Islamic religious scholars, as opposed to Western-educated intellectuals or political activists. Prominent members of the Muslim Brotherhood, for example, have received a certain amount of attention, but there is no outstanding figure from the class of ʿulamāʾ, at least in the Arab world, to compare with Muḥammad ʿAbduh as regards the extent of his influence and the radical departure which he represents. Perhaps as a result of this, the class of ʿulamāʾ has been somewhat neglected, and dismissed by many, who feel that they are isolated from the mainstream of Muslim society, "losing touch with the thought of the age".¹ While there is no doubt some truth in this, we aim to show that it is possible for even a scholar with a wholly traditional training, like Shaltūt, to be deeply concerned with communicating his knowledge to ordinary Muslims and with its application to contemporary problems. Shaltūt could not be described as an

¹H.A.R. Gibb, Modern Trends in Islam, Chicago: University of Chicago Press, 1947, p. 122.

isolated example, since he was widely respected by his colleagues at the Azhar, and ultimately attained the most prominent position within it.

It is to be hoped that parts of this thesis will provide a study of Islam "from within", in particular Chapter Three, which deals with Shaltūt's work in the area of Islamic law. In this area, it will be seen that Shaltūt has a special contribution to make, being more thoroughly versed in Islamic jurisprudence than Muḥammad °Abduh or Rashīd Ridā. Here, some of Shaltūt's ideas will counteract certain impressions which have been conveyed by Orientalists; there is a tendency on the part of many of them to narrow the scope of the Shari'ah. For example, Schacht claims that "there are no fines in Islamic law", no concept of negligence, and no concept of mitigating circumstances or theory of attempt.² However, we will see in Chapter Three that fines are considered to be a valid form of punishment, on the basis of the practice of the Prophet.³ The concept of negligence is covered in Shaltūt's section on civil and criminal liability, where he discusses the various juristic opinions on the case of the employee who damages goods which are in his care, and where the issue at stake is in fact whether or not the employee was negligent.⁴ The case described by Shaltūt where a man, happening upon his wife in the

²Joseph Schacht, An Introduction to Islamic Law, Oxford: Clarendon Press, 1984 (repr.), pp. 176, 182 and 187 respectively.

³Infra, p. 207.

⁴Infra, p. 241.

act of adultery, kills either or both of them, takes into account the violent emotions of the husband ("al-ghayrat allatī tushbihu al-junūn") as a mitigating circumstance.⁵ Finally, Shaltūt mentions the famous ḥadīth where the Prophet says that when two Muslims fight each other to the death, both the one who slays and the one who is slain will go to Hell, since the victim was in fact trying to kill his slayer. Shaltūt elaborates on this, explaining that in order to earn this guilt the person must actually make a physical attempt to commit the crime as opposed to just thinking about it.⁶ This is therefore an example of the theory of attempt. It is to be stressed that neither of these examples represent innovations on the part of Shaltūt; all are to be found in works of classical jurisprudence. Shaltūt's main achievement here was to illustrate the scope of the Sharī'ah and present it in a straightforward and untechnical manner while remaining true to the heritage of Islamic scholarship.

It is to be hoped also that Shaltūt's work will present a more optimistic picture of the potential of the Sharī'ah as a dynamic force which can survive in the twentieth century. Malcolm Kerr, for example, writing in 1966, felt that there was no longer any question of Islamic law forming the comprehensive basis of an entire legal structure, and that reformist interpretations of it

⁵ Infra, pp. 215-16.

⁶ Al-Islam, 'Aqīda wa-Sharī'ah, Cairo: Dār al-Shurūq, 13th ed., 1985, p. 327.

could "retain their integrity only as a catechism".⁷ Jansen asserts that ijtihād (the use of independent thought in evolving the law as opposed to relying on the judgement of classical scholars) "serves to justify in retrospective the changes that are brought about by outside forces", notably Western influence.⁸

Again, Jansen lays much stress on the influence of Western ideas and values on modern Quranic exegesis, almost to the extent of portraying that influence as its raison d'être.⁹ While Shaltūt inevitably refers in general terms to the the evils of imperialism and the undesirability of Muslims' turning away from their own culture in order to imitate that of the West, he is not a scholar who is involved in Orientalist-Muslim polemics, as will be seen in Chapter Four; his work is not distorted by an over-defensive attitude or burdened by frequent references to Western standards. We feel therefore that it has a certain integrity which gainsays the aforementioned generalisations concerning Western influence.

Shaltūt stands out among recent Shaykhs of the Azhar by virtue of his overriding concern to reach ordinary Muslims, through public lectures, broadcasting and publications. In these he strove to de-mystify the Islamic sciences, for example quoting

⁷Malcom H. Kerr, Islamic Reform: The Political and Legal Theories of Muḥammad °Abduh and Rashīd Ridā, Berkeley and Los Angeles: University of California Press, 1966, p. 15.

⁸J.J.G. Jansen, The Interpretation of the Koran in Modern Egypt, Leiden: E.J. Brill, 1980, p. 91.

⁹Ibid., pp. 93-94 and 97.

sources and underlying reasons in his fatwās rather than giving bare answers to the questions asked. As will be seen in Chapter One, however, he was not just a scholar but actively involved in reform issues which affected not only the Azhar but Muslims worldwide, most notably his activities in the cause of al-tagrīb bayna al-madhāhib (the coordination of the schools of law), and his efforts to improve Sunnī-Shī'ī relations.

As a secondary source on Shaltūt we would mention only Wolf-Dieter Lemke's "Maḥmūd Šaltūt (1893-1963) und die Reform der Azhar", published in 1980, which concentrates, as the title suggests, on Shaltut's reform activities within the Azhar. We have therefore dealt relatively briefly with this aspect of Shaltut's work in order to avoid duplication. Lemke had the same difficulty as this writer in finding detailed sources for Shaltut's life,¹⁰ and we have both had to rely on relatively brief articles in periodicals such as Majallat al-Azhar. While there is a brief exposition of the reform ideas of al-Marāghī (Shaykh al-Azhar 1928-29, 1935-45) in order to illustrate the continuity of Shaltūt's ideas with al-Marāghī's, we have referred only in passing to Muḥammad 'Abduh's reform work, which is amply dealt with in other works.

The core of the thesis bases itself on Shaltūt's own writings; however, it was felt necessary to place Shaltut within the perspective of modern Muslim scholarship, and to this end we have

¹⁰Wolf-Dieter Lemke, Maḥmūd Šaltūt (1893-1963) und die Reform der Azhar, No. 1 of series "Islam und Abendland", Frankfurt: Peter D. Lang, 1980, p. 34.

had recourse to the works of numerous Muslim and Orientalist scholars in the various fields covered. There is inevitably a degree of subjectivity in the selection of cases for comparison, but it is to be hoped that there are no glaring omissions in the overall picture presented.

The form of this thesis was dictated to a great extent by the nature of Shaltūt's work, which could be said to fall approximately into the three categories of tafsīr, law, and social issues. There are always drawbacks to any system of categorisation, however, and a degree of overlap between the different categories. For example, Shaltūt deals with social and legal issues in his tafsīr, and comments which are made on his style of writing in a particular chapter may apply equally to his writings which fall into a different category. There is therefore an attempt to maintain continuity between the chapters, with cross-references where necessary, and to keep repetition to a minimum.

We would refer the reader to the abstract for a brief description of Chapters Two, Three and Four, adding here only that conclusions have been drawn throughout the thesis, so that there is no overall conclusion at the end. In view of the wide range of areas covered by Shaltūt, it seemed more appropriate to make comments or draw conclusions as matters arose, rather than delay this to the end of the thesis; an overall conclusion would therefore have involved little more than repetition. A cohesive picture of Shaltūt emerges throughout the thesis, and the picture

is a human one, with its strengths and weaknesses; we did not feel inclined to "sum up" the human being in a few brief lines at the end which may have served to detract from the picture rather than enhance it.

* * * * *

The Quranic translations contained in this thesis are mostly based on the revision of N.J. Dawood's translation carried out by Mahmud Zayid and published by Dar al-Choura in Beirut. However I have made modifications where I felt it necessary in the interests of fluency and/or clarity.

After the first full mention of one of Shaltut's works, the title is often given in an abbreviated form, e.g. Tafsīr, ʿAqīda wa-Sharīʿa, Muqāraana. I have omitted for convenience the diacritical marks on Shaltūt's name and on the titles of his works after their first mention, as well as on words in common usage such as Qur'an, Shariʿa and sura.

Arabic words in footnotes are placed within quotation marks rather than being underlined, in order to avoid confusion with titles of works cited.

CHAPTER ONE
SHALTUT'S LIFE AND REFORM WORK

1) Biographical Details

Shaltut was born on 23rd April 1893 in a farming village of Lower Egypt called Minyat Banī Mansūr in the district of Itāy al-Bārūd in the province of Buḥayra.¹ It is most probable therefore that like the majority of Azhar students, he was from the peasant class. After learning the Qur'an by heart, Shaltut was enrolled in 1906 at the new Religious Institute of Alexandria, one of the four mosque schools affiliated to the Azhar, for the primary and secondary stages of education, where he was consistently top of his class. In 1918 he graduated from the Azhar with his °alīm diploma (Shahādat al-°Ālimiyyat al-Nizāmiyya), obtaining the highest mark for his year group.

In 1919 he was appointed to teach at the Alexandrian Institute, and during his time there he was active in academic circles, publishing articles on the religious sciences in the institute's press. Already in the early 'twenties he took an interest in the issue of Azhar reform.² In 1927 he was transferred to teach at the Higher Division (al-Qism al-°Āli) of the Azhar.

¹Unless otherwise stated, details in this brief biographical sketch will be taken from °Adad Mumtāz (special edition to mark Shaltut's appointment as Shaykh al-Azhar, Majallat al-Azhar, 30 (1958/59), preceding Part 4 (October 1958), no page numbers.

²Wolf-Dieter Lemke, Mahmūd Šhaltūt (1893-1963) und die Reform der Azhar, p. 46.

When al-Marāghī was first appointed Shaykh al-Azhar in 1928, Shaltut openly supported his reform plans, but it seemed the Azhar was not yet ready for radical reform and strong opposition forced al-Marāghī's resignation the following year.³ Al-Marāghī's rival, the more conservative al-Zawāhirī, was appointed to the rectorship, but faced unrest from the more progressive elements in the Azhar. These circumstances led to the dismissal of Shaltut and several others on 17th September 1931.⁴

During his period of dismissal Shaltut worked as a lawyer in the Shari'a courts⁵ while continuing to publish his views on reform. In 1935, however, the year when al-Maraghi began his second term of office as Shaykh al-Azhar, Shaltut was reinstated and appointed Wakīl (Vice-Dean) of the Kulliyat al-Shari'a (Faculty of Law),⁶ and then Inspector of the Religious Institutes. From then on his career at the Azhar went from strength to strength.

³Daniel Crecelius, The Ulama and the State in Modern Egypt, Phd Dissertation, Princeton University, 1967 (microfilm), pp. 308-11.

⁴Crecelius states that nineteen "insurgents" were included in a group of seventy shaykhs who were being forcibly pensioned off on the pretext of advancing age - see ibid., p. 314. See Lemke, op. cit., pp. 90-91, for the names of some of those who were dismissed with Shaltut.

⁵See 'Alī 'Abd al-Rāziq, Al-Marhūm al-Ustādh al-Akbar al-Shaykh Mahmūd Shaltūt, in Majallat Majma' al-Lughat al-'Arabiyya, 19 (1965), p. 150, where the author tells us that he worked in partnership with Shaltut during that period.

⁶This was one of the three Azhar faculties, the other two being the Faculty of Arabic Language and the Faculty of Theology.

In 1937 he represented the Azhar at an international conference on comparative law held at The Hague. There he gave a lecture on the nature of Islamic law which was well received and which won recognition for the Shari^ca as a viable and independent source of law from the delegates.⁷ In 1941 he was admitted to Jamā^cat Kibār al-^cUlamā' on the basis of his paper on civil and criminal liability, and became its youngest member. In 1946 he was chosen as a member of Majma^c al-Lughat al-^cArabiyya, and in 1950 he was appointed General Supervisor of Islamic Culture and Research at the Azhar, which gave him an opportunity to develop relations with the rest of the Arab and Islamic world.

In 1957 Shaltut was appointed Consultant to the Islamic Conference, and on the 9th November of that year the President issued a decree appointing him to the position of Wakīl al-Azhar (Vice-Rector).⁸ On October 21st 1958, his elevation to the rank of Shaykh al-Azhar was announced.⁹ Shaltut was then sixty-five years old.

Throughout his academic career Shaltut's activities in many committees and societies reflected his wide-ranging interests. He was a member of al-Lajnat al-^cUlyā li'l-^cAlāqāt al-Thaqāfiyyat

⁷The lecture concerned civil and criminal liability, and is likely to have been similar or identical in content to the thesis he submitted in 1941 for admission to Jamā^cat Kibār al-^cUlamā'-see Lemke, op. cit., p. 128, fn. 1. This dissertation is now to be found in Shaltut's °Agida wa-Shari^ca, pp. 392-429.

⁸The resolution is published in Majallat al-Azhar, 29 (1957/58), preceding Part 6 (Dec. 1957).

⁹This resolution is published in °Adad Mumtāz.

al-Khārijīyya of the Ministry of Education, al-Majlis al-A^clā li'l-Idhā^ca, and al-Lajnat al-^cUlyā li-Ma^cūnat al-Shitā', and presided over Lajnat al-^cĀdāt wa'l-Taḡālīd of the Ministry for Social Affairs. Within the Azhar Shaltut was a member of many academic committees, including those which dealt with law and economics, geography and history and the Arabic language.¹⁰ In 1948 he was involved in the founding of Jamā^cat al-Taḡrīb bayna al-Madhāhib (the Society for the Coordination of the Schools of Law). He delivered lectures on tafsīr in Dār al-Hikma and Duwar al-Ta^clīm, published many articles in newspapers and periodicals, and his morning radio broadcasts on religious topics were highly popular.¹¹

During his rectorship Shaltut received visits on an unprecedented scale from many international figures including politicians, journalists, academics and prominent men of various religions.¹² His visitors included the heads of state of Iraq, Yemen, Cameroon, Burma, Cyprus, Ethiopia, and the Vice-President of India.¹³ He himself made several visits abroad, including visits to Malaysia, the Philippines and Indonesia.¹⁴

¹⁰ Muḥammad Maḥdī ^cAllām, Al-Marḥūm al-Ustādh al-Akbar al-Shaykh Maḥmūd Shaltūt, in Majallat al-Azhar, 35 (1963/64), p. 155.

¹¹ Ibid., p. 158.

¹² Ahmad Ḥasan al-Zayyāt, Al-Imām al-Akbar al-Shaykh Maḥmūd Shaltūt, in Majallat al-Azhar, 35 (1963/64), p. 644.

¹³ ^cAllām, op. cit., p. 162.

¹⁴ Ibid., p. 161.

His published works have been collected into five main volumes: "Tafsīr al-Qur'ān: al-ajzā' al-asharat al-ūlā", "Al-Islām: 'Aqīda wa-Sharī'a", "Al-Fatāwā", "Min Tawjihāt al-Islām" and "Min Hudā al-Qur'ān", all of which have run into several editions and received a wide distribution throughout the Arab world. He also produced a text-book for students at Kulliyat al-Sharī'a in collaboration with Muhammad 'Alī Sāyis, entitled "Muqāranat al-Madhāhib fi'l-Fiqh".

By all accounts Shaltut was a very popular choice for the position of Shaykh al-Azhar; it was the first time that Majallat al-Azhar devoted a special edition to mark such an appointment, and in it were printed letters and telegrams of congratulation from numerous notables in Egypt and abroad, representing many organisations and countries.¹⁵

Shaltut has been described by several people as a gifted orator, having a powerful voice and a commanding presence.¹⁶ During his period of dismissal from the Azhar, his Friday sermons at the Amīr Muḥammad 'Alī Tawfīq Mosque attracted large numbers of people.¹⁷ His obituaries all refer admiringly to his tenacity in clinging to his reform ideas and his indefatigable activities in the service of Islam. Al-Zayyāt relates an anecdote in order to illustrate Shaltut's integrity: when 'Abd al-Majīd Salīm was

¹⁵ See 'Adad Mumtāz.

¹⁶ 'Abd al-Rāziq, op. cit., p. 150, and al-Zayyāt, op. cit., p. 645, and conversation with Dr. Zakī Badawī on 23rd May 1988.

¹⁷ 'Abd al-Rāziq, op. cit., p. 151.

appointed Shaykh al-Azhar (in 1950), he asked King Fārūq to appoint Shaltut as Wakīl. Fārūq agreed only on condition that Shaltut would cease teaching and delivering sermons at the Amīr Muḥammad °Alī Mosque at Qaṣr al-Manīl. Al-Zayyāt was charged to convey this message to Shaltut, who replied in anger that he would prefer to be dismissed from the Azhar again and suffer poverty with his children than compromise his honour, and that he would rather work for God at the Amīr mosque than for Satan at the Palace as Wakīl of the Azhar.¹⁸

Shaltut was admired for the boldness of certain of his fatwās;¹⁹ in particular the fatwā concerning "the raising up of Jesus" (rafʿ °Isā), in which he maintained that it was not an essential part of the Islamic creed to believe that Jesus had been physically raised up to be with God in heaven, where he now remains, waiting for the end of the world when he will descend. This fatwā was first published in al-Risāla, and raised a storm of protest so that Shaltut was obliged to write a second article in defence of his position.²⁰

He was also admired for his gallantry in scholarly disputes, or what may be termed as "adab"; another article published in al-Risāla, in which Shaltut drew a distinction between the different

¹⁸Al-Zayyāt, op. cit., p. 644.

¹⁹Muḥammad Rajab al-Bayyūmī, Sadāqat al-Fikra bayna Shaltūt wa'l-Risāla, in Majallat al-Azhar, 36 (1964/65), p. 153.

²⁰Both articles are now contained in Shaltut's Al-Fatawā, 12th ed., Cairo: Dār al-Shurūq, 1983, pp. 59-82; they will be discussed in some detail in Chapter Three.

roles of the Prophet (e.g. ordinary human being, qādī, messenger of God, etc.) in order to determine the status of particular ahādīth (i.e. upon whom and to what extent they are binding), was opposed by Muḥammad al-Khiḍr Husayn (Shaykh al-Azhar 1952-54). However, in this case the argument took place in a civilised atmosphere with due respect on both sides. Shaltut is described as welcoming the criticism, and a well-known anecdote recounts how, in the face of expectations of a rift between the two men, Shaltut announced: "Man asqata al-Khidr qad asqata nafsahu" ("Whoever rejects al-Khiḍr does so to his own detriment").²¹

The importance which Shaltut attached to independent thought is illustrated by an incident which occurred relatively early in his career, around 1938. At that time he visited the Zagazīg Institute in the province of Sharqiyya in his capacity of Inspector of Religious Institutes. There the students had been taught according to the Shafi'i school that it was sunna to pronounce the niyya (declaration of intent) aloud. Shaltut asked a class of students in the presence of their teacher to give the definition of sunna; they replied that it was something which is rewarded if performed, but not punished if omitted. Shaltut, however, told them that it is an action which was performed or approved by the Prophet, and was most emphatic in recommending that the students should ask for evidence so that they could

²¹Al-Bayyūmī, op. cit., pp. 153-54.

judge matters such as the pronouncement of the niyya for themselves instead of taking them on trust.²²

In the last years of his life Shaltut suffered from ill-health. He apparently suffered a stroke even before his appointment as Shaykh al-Azhar.²³ For at least a part of his period in office he suffered from paraplegia and was confined to a wheelchair.²⁴ In 1962 he moved his office to his own house. This move is variously attributed to his poor health and to his disillusionment with the government's interference in Azhar affairs.²⁵ Probably there is some truth in both postulates.

On 25th November 1963, at the age of 70, Shaltut was taken into Cairo's Al-Agouza Hospital. There his condition worsened until a day after undergoing prostate surgery, he died of a heart attack on December 13th. The funeral was held the following day after the jum'a prayer at Al-Azhar Mosque, and he was buried in a private cemetery nearby.²⁶

2) Shaltut's Reform Work

²²Anecdote related by Dr. Zakī Badawī to this writer on 23rd May 1988.

²³Conversation with Dr. Badawī, 23rd May 1988.

²⁴Al-Zayyāt, op. cit., p. 645.

²⁵Lenke, op. cit., pp. 238-39.

²⁶These details are taken from a report in the New York Times, December 14th 1963, reproduced in Moslem World, 54 (1964), p. 148.

It is not clear precisely why in 1906 Shaltut was sent to the Alexandrian Religious Institute in preference to the mosque school at Ṭanṭā which lay nearer home. What is certain is that the Alexandrian school was at that time the most progressive of the religious institutes. It had been founded in 1903 under the administration of the Azhar, and Muḥammad ʿAbduh had been able to implement some of his reform ideas there, including the introduction of "al-ʿulūm al-ḥadītha" such as the natural and mathematical sciences, and the encouragement of independent thinking.²⁷ Shaltut must have been influenced in his reform ideas and his general intellectual outlook by the progressive atmosphere at the Alexandrian Institute, where he experienced the cooperation between the religiously motivated visions for reform of Muḥammad ʿAbduh and the state interest in reform.²⁸

By the 'twenties, in view of the growing rift between the state educational system and the Azhar system, the generally low standard of Azhar graduates and the problems they faced in the labour market, the need for reform was widely acknowledged; even the conservative al-Zawāhirī accepted this.²⁹ The conflict centred on the extent of the proposed reforms; al-Zawāhirī proposed superficial reforms which affected the structure of courses but not their content,³⁰ while the more progressive-

²⁷Lemke, op. cit., pp. 36 and 42.

²⁸Lemke, op. cit., p. 37.

²⁹Ibid., p. 93 and Crecelius, op. cit., p. 311.

³⁰Lemke, op. cit., p. 242.

minded ‘ulamā’ including al-Marāghī and Shaltut, like the government, looked for more meaningful reform.

When al-Marāghī was first appointed to the rectorship in 1928, he presented a "memorandum" to King Fu'ād in which he laid out his ideas for reform.³¹ The ideas presented therein gained wide support among the reform-minded ‘ulamā’ including Shaltut, and raised great hopes among them.

In the memorandum, al-Marāghī praised the efforts of medieval scholars and the past work of the Azhar, but lamented the fact that in more recent times religious leaders had become intellectually lazy, abandoning original thought (ijtihād), and becoming isolated from the world and everyday life. These men were inadequate as preachers and defenders of Islam.³² He referred to the ineffectiveness of the reform attempts of the past twenty years, and called for changes of a more fundamental kind, including a change in teaching methods.³³

Al-Marāghī believed that the learning material should be pruned of superfluous or false elements such as manifold and contradictory interpretations and bida‘ (blameworthy innovations). The curriculum should be purged of sectarianism

³¹This memorandum was originally published in al-Ahrām, 5th and 7th August 1928; it has been translated into English in Moslem World, 19 (1929), pp. 183-95, under the title: "A Defense of Reforms in al-Azhar". For a German version and comments see Lemke, op. cit., pp. 65ff. As we do not have access to the original Arabic, we will refer in our discussion to the English translation.

³²Al-Marāghī, A Defense..., pp. 183-84.

³³Ibid., p. 186.

(madhhabiyya), and legal rulings should be brought in line with modern knowledge and circumstances. He recommended the study of other religions and their histories in order to better defend Islam, and the widening of the syllabus to include the study of secular subjects such as the natural sciences, as well as foreign languages including their history and philology. He asked that modern educational methods be employed;³⁴ this meant concentrating on the "development of the powers of the mind" rather than traditional methods of rote-learning.³⁵ He referred to the inadequacy of the old text books which were abstruse and unsystematic in their arrangement, and called on those professors who were able to understand them to "set forth the old learning in the new ways".³⁶

He felt that the archaic manner of instruction in the Shari'a had led to its abandonment in many cases, in the belief that it was not suited to modern times. He therefore called for the exercising of ijtihad, while preserving the essential core of the religion.³⁷ The actual legal rulings ought to be studied in conjunction with the principles of jurisprudence, in order to promote a fuller understanding of the workings of the Shari'a.³⁸ He criticised the prevailing emphasis on theoretical rather than

³⁴Ibid., p. 187.

³⁵Ibid., p. 189.

³⁶Ibid., p. 193.

³⁷Ibid., p. 188.

³⁸Ibid., p. 187.

practical matters, and the lack of general knowledge on the part of Azhar professors, qādīs etc., resulting in a narrow outlook.³⁹

Al-Marāghī additionally called for a unification of the Azhar system with the government's Dār al-ʿUlūm and Madrasat al-Qadā' al-Sharʿī, and made suggestions for more efficient structuring of divisions and grades, and for making realistic adaptations to the labour market so that graduates could be sure of obtaining suitable employment.⁴⁰

Soon after the commencement of his second period of office, in 1936, al-Marāghī did in fact implement a reform programme, but it mostly concerned organisational or administrative matters and did not entail far-reaching changes.⁴¹ Subsequent to this, political circumstances, not least the Second World War, were not in any case favourable for the implementation of reforms. Whether for political reasons or through a lack of real resolve, al-Maraghi achieved virtually nothing of what he had originally hoped for.⁴²

During al-Marāghī's second term as Shaykh al-Azhar, Shaltut and others gradually became disillusioned with his failure to take decisive action.⁴³ Shaltut therefore took the initiative and

³⁹Ibid., p. 190.

⁴⁰Ibid., pp. 188-95, *passim*.

⁴¹Crecelius, op. cit., p. 319.

⁴²Ibid., p. 321, and Lemke, op. cit., pp. 148-49.

⁴³Al-Zayyāt, op. cit., p. 643, and al-Bayyūmī, op. cit., p. 150. Al-Marāghī himself is described as rather dispiritedly admitting his failure to implement effective reform - see Muḥammad Muḥammad al-Madanī, Amthila..., in al-Risāla, 11, No. 512 (26th April 1943), p. 327.

put forward his own ideas for reform. In fact his ideas did not differ substantially from those of al-Marāghī, and Shaltut himself stressed the continuity of his reform ideas with those of ʿAbduh and al-Marāghī; Lemke describes the main difference between them as being Shaltut's greater determination to succeed.⁴⁴

There are two main sources for Shaltut's views on reform: a list of suggestions for the reform of Jamāʿat Kibār al-ʿUlamā' which he raised before that body at a meeting on 5th November 1941, only three months after his election thereto, and a lecture on educational policy at the Azhar entitled "Al-Siyāsah al-Tawjīhiyyah al-ʿIlmiyyah fi'l-Azhar", which he delivered in February 1943 at the Azhar.

Jamāʿat Kibār al-ʿUlamā' was originally created in 1911 under the name of Hay'at Kibār al-ʿUlamā'. It was charged among other things with the task of exerting religious control over the ʿulamā', and of carrying out "al-waʿz wa'l-irshād" (preaching and providing spiritual guidance to the Muslims). There was however no formal training for the ʿulamā' to become preachers or missionaries; in fact their traditional education made them ill-equipped to communicate with the uneducated (at least in the religious sense) mass of Muslims.⁴⁵

⁴⁴Lemke, op. cit., p. 147.

⁴⁵Ibid., pp. 129-31; Lemke describes subsequent attempts to provide training for al waʿz wa'l-irshād, but concludes that there was no real commitment to this up until the time when Shaltut made his suggestions - see ibid., pp. 132-34. For additional information about the inauguration of this body see

In his famous suggestions⁴⁶ Shaltut makes it clear that he feels that the Jamā'a has not lived up to original expectations. In the preamble to his suggestions he quotes from the original 1911 statutes:

...the members of Hay'at Kibār al-°Ulamā' should be beacons of knowledge, preservers of the Shari'a and of the language of the Qur'an, so that troubled hearts can turn to their knowledge, and agitated souls find rest in their guidance...

He states that the Muslim community still looks to this body to promote and strengthen the cause of Islam and defend it against attack, and to elucidate the precepts of the Shari'a.

He therefore suggests the setting up of a permanent academic board for the Jamā'a, which will work to achieve the following aims:

- (1) To defend religion in general and Islam in particular, in accordance with modern methods of study and research;
- (2) to investigate disputes or differences between °ulamā', and to lay down criteria in order to differentiate between that which is bid'a and that which is not (i.e. in order to clarify the areas in which differences are permissible and need not lead to dispute);

Bayard Dodge, Al-Azhar: A Millenium of Muslim Learning, Washington: The Middle East Institute, 1961, pp. 142-43.

⁴⁶The full text of these suggestions is reproduced under the title of Iqtirāh marfūc ila Jamā'at Kibār al-°Ulamā', in al-Risāla, 9, No. 437 (17th Nov. 1941), pp. 1415-16. Slightly shortened versions can be found in al-Madanī, Şafha Baydā' min Jihād Shaltūt fi sabīl al-Islāh wa'l-Taqrīb bayna al-Muslimīn, in Majallat al-Azhar, 35 (1963/64), pp. 651-52, and al-Bayyūmī, op. cit., p. 151.

(3) to compile a list of isrā'īliyyāt⁴⁷ contained in popular tafsīrs, to protect people from lending them too much credence;

(4) to issue fatwās in response to questions from Muslims worldwide;

(5) to investigate modern transactions in order to discern the rulings of the Shari'ca regarding them, so that people may appreciate the tolerance and flexibility of the Shari'ca;

(6) to organise the activities of al-wa'z wa'l-irshād, and to liaise with other concerned bodies such as the Ministry for Social Affairs and Islamic societies abroad;

(7) to search for useful books in the various academic disciplines, and to revise them and publish them in an academically sound form;

(8) to supervise Majallat al-Azhar and direct it in order to best serve the interests of "the Islamic intellectual movement" and in such a way as to reflect the activities of the three faculties (law, Arabic language, theology).

The majority of these suggestions are concerned with strengthening the Jamā'ca's pastoral role and spiritual leadership. There is an emphasis on communication between the learned and ordinary Muslims, on breaking down the Azhar's international isolation, and on bringing it closer in line with

⁴⁷These are the reports from Jewish or Christian converts in the early period of Islam, who drew on their own religious heritage in order to throw light on certain events related in the Qur'an, such as the contents of the table which the disciples asked to be sent down. As will be seen in Chapter Two, the reform movement inaugurated by Muḥammad 'Abduh strongly objected to the inclusion of such unreliable material in tafsīr.

the spirit of the modern age. The suggestion concerning liaison with the Ministry for Social Affairs shows a willingness to cooperate with the government, significant in the light of later developments. Certain of the suggestions, such as to defend religion in general and to identify points of difference between scholars, reveal his unitarian and ecumenic tendencies, which were later to find expression in his work for tagrīb. He evidently felt that Majallat al-Azhar was not reflecting the full gamut of intellectual activity at the Azhar; in recent times it had been somewhat dominated by the editorship of Farīd Wagdī.⁴⁸

It is noteworthy that several of the suggestions put forward refer to tasks which had in fact already been delegated to other bodies, and would therefore appear to suggest that those bodies were not successfully performing their functions. In his reform laws of 1936, al-Marāghī had set up Lajnat al-Fatwā for the issuing of fatwās, and Shaltut had himself been involved with that committee; similarly al-Marāghī had stipulated that the Jamā'a should undertake to organise al-da'wa wa'l-irshād. Shaltut explicitly mentioned those facts in the course of his suggestions; he did however praise the achievements of a committee which al-Marāghī had formed in order to investigate differences between 'ulamā', the second aim on Shaltut's list of

⁴⁸For a description of Wagdī's editorship and its shortcomings, see Wilfred Cantwell Smith, Islam in Modern History, Princeton: Princeton University Press, 1957, pp. 132-50.

suggestions. It was not clear whether he envisaged the continuation of that committee or its replacement.

These suggestions had repercussions outside the Jamā'a; there were heated discussions of them in the pages of periodicals and an enthusiastic response from those 'ulamā' such as Muḥammad al-Madanī and Muḥammad 'Abd al-Mun'im al-Khafājī who supported radical reform.⁴⁹ They were seen by many as a criticism of and challenge to al-Marāghī; the very fact that he had put forward his own reform plan demonstrated his disillusionment with al-Marāghī's reform attempts. It is likely that al-Marāghī was more or less offended, for he did little to facilitate the implementation of the suggestions.⁵⁰ A commission was set up to look into them, under the auspices of 'Abd al-Majīd Salīm, but with no immediate results, although in 1952 a committee was appointed to take over the apologetical tasks outlined in Shaltut's first suggestion.⁵¹

Shaltut followed up these suggestions with his lecture on educational and academic policy at the Azhar in 1943.⁵² This

⁴⁹Al-Risāla in particular, under the editorship of the progressive al-Zayyāt, supported Shaltut's programme and published articles in praise of them - see Lemke, op. cit., p. 141, fn. 5 for a list of articles.

⁵⁰Al-Bayyūmī, op. cit., p. 151, and al-Madanī, Ṣafḥa Baydā'..., p. 653.

⁵¹Lemke, op. cit., p. 142; Lemke comments that the installation of a commission was to avoid having to make a decision.

⁵²Although 'Adad Mumtāz gives the year of this lecture as 1942, we agree with Lemke (op. cit., p. 147) that it was in 1943. An article written in April 1943 describes the lecture as having taken place "last February" (al-Madanī, Amthila..., p. 327); the

lecture apparently aroused considerable interest and was relayed by loud-speaker to an audience of approximately four thousand students and ʿulamā', including many in prominent positions; it was delivered in Kulliyyat al-Sharīʿa of the Azhar.⁵³

Like al-Marāghī in his memorandum, Shaltut began by praising the Azhar's work in the middle ages in preserving the Islamic religion and the Arabic language. He particularly commended the fact that at that time the law was taught according to the various madhāhib rather than just one, and the curriculum included several mathematical and rational sciences.⁵⁴

The situation deteriorated, however, with the spreading of the concept of taqlīd (adherence to the opinions of former scholars, as opposed to ijtihād); intellectual effort then revolved around mere formal or superficial discussions and disputes, hypothetical questions unrelated to practical life, and the invention of hiyal (legal fictions formulated in order to circumvent the letter of the law, although violating the spirit). The spirit of sectarianism grew and people were obliged to confine themselves

fact that the articles written in response to this lecture (see Lemke, op. cit., p. 147, fn. 2 for list) were all published in mid-1943 make it highly unlikely that it was delivered in February 1942. The lecture itself is reproduced in Muḥammad ʿAbd al-Munʿim al-Khafājī, Al-Azhar fī Alf ʿĀmm, 3 parts in one volume, Cairo: Maṭbaʿat al-Muniriyya, 1954-55, 3:9-16; not having had access to this work, our comments are based on an article by al-Madanī entitled Al-Siyāsat al-Tawjīhiyyat al-ʿIlmiyya fi'l-Azhar, in Al-Risāla, 11, No. 515 (17th May 1943), pp. 384-86, and on Lemke's description of the lecture in op. cit., pp. 143-46.

⁵³Al-Madanī, Amthila..., pp. 327-28.

⁵⁴Lemke, op. cit., pp. 143-44.

to a single madhhab. All this obstructed real intellectual progress, and the Azhar became increasingly isolated from the Muslim community.⁵⁵

Shaltut then acknowledged the valuable reform efforts of Muhammad 'Abduh and al-Marāghī, thus stressing the continuity of his own ideas with theirs. He praised the former for "awakening the Azhar from its slumber", and commended the latter for his famous memorandum, mentioning the great hopes it aroused. He mentioned with approval certain points raised therein, including the modernisation of text books, the elimination of madhhabiyya, and the simplification of the study of the various religious sciences. He then expressed disappointment that despite the passage of time since the issuing of that memorandum, these things had remained unchanged, and much energy was still being wasted on hypothetical and unnecessary matters.⁵⁶

Shaltut regretted that the reforms which had taken place were not implemented in the spirit in which they were originally intended. He concluded that until bold steps for reform were taken, "al-Azhar will remain isolated from the community, neither fulfilling its (i.e. the community's) needs nor being properly respected by it, even if a thousand (reform) laws were to be passed".⁵⁷

⁵⁵ Ibid., pp. 144-45, and al-Madanī, Al-Siyāsah..., p. 385.

⁵⁶ Al-Madanī, op. cit., p. 385.

⁵⁷ Ibid., p. 386.

Shaltut's lecture was warmly received; it was interrupted by loud applause and cheering, and at the end he was publicly congratulated by the Muftī of al-Diyār al-Misriyya and embraced by the Wakīl of the Azhar. The students insisted on carrying Shaltut out of the lecture hall on their shoulders.⁵⁸ Like Shaltut's suggestions of 1941, the lecture received an enthusiastic press in al-Risāla,⁵⁹ and al-Khafājī in his book "Al-Azhar fī Alf ʿĀmm," included it in his collection of fourteen important documents concerning the history of Azhar reforms, despite the fact that Shaltut had not yet been promoted to the position of Shaykh or Wakīl of the Azhar at the time of writing.

Shaltut adhered to his original views on reform during the following years, but in view of the fact that the time was not yet ripe for their implementation, there was little point in adding to them. Perhaps his most conspicuous activity in this regard was his involvement with Jamāʿat al-Taqrīb bayna al-Madhāhib; this lasted for over twenty-five years, until his death in 1963.⁶⁰ Several prominent Azharīs were involved in its founding along with Shaltut, including Muṣṭafā ʿAbd al-Rāziq (Shaykh al-Azhar 1945-47) and ʿAbd al-Majīd Salīm (Shaykh al-Azhar 1950-51).⁶¹ On the Shīʿī side, the Iranian scholar Muḥammad Taqī al-Qummī was involved at the outset; Shaltut describes him

⁵⁸Al-Madanī, Amthila..., p. 328.

⁵⁹See Lemke, op. cit., p. 147, fn. 2, for a list of articles.

⁶⁰Safha Baydā'..., p. 654.

⁶¹Al-Madarī, Safha Baydā'..., p. 653.

as one of the first to call for tagrīb.⁶² Shaltut attributes the original idea for the movement to al-Marāghī, who called for the abolition of the sectarian spirit in his memorandum of 1928.⁶³

The mouthpiece of the organisation was Risālat al-Islām, which issued its first number in January 1949 under the editorship of Muḥammad al-Madanī. The president of the organisation was Muḥammad ʿAlī ʿUlūba Pāshā.⁶⁴ The three main aims of Jamāʿat al-Tagrīb, as propounded in article two of its constitution, were: (1) to bring together the Islamic sects and madhāhib; (2) to publish the principles of Islam in various languages and convince people of the need to adhere to them, and (3) to attempt to settle disputes between Muslim peoples or sects by acting as mediator between them.⁶⁵

Shaltut refers to the vehement opposition with which the movement met (characteristically naming no names), but sees this as a reflection of its importance. He attributes this opposition variously to narrow-mindedness, a vested interest in conflict, or misunderstanding on the part of those who feared that tagrīb represented an attempt to merge all the schools into one.⁶⁶ It is stressed by various members of the movement that the aim is not

⁶²Al-Madanī, (ed.), Daʿwat al-Tagrīb, Cairo: Al-Majlis al-ʿAlā li'l-Shu'ūn al-Islāmiyya, 1966, p. 10.

⁶³Shaltut, Muqāranat al-Madhāhib fi'l-Figh, Cairo: Maṭbaʿat Muḥammad ʿAlī Ṣabīḥ wa-Awlāduhu bi'l-Azhar, 1953, p. 5.

⁶⁴Risālāt al-Islām, 1 (1949), p. 5.

⁶⁵Ibid., p. 8.

⁶⁶Daʿwat al-Tagrīb, p. 13.

to abolish the madhāhib themselves but to abolish the causes of enmity between them. Difference of opinion itself is seen as a healthy sign of intellectual activity.⁶⁷ The important thing is to achieve unity on a small core of essential points of creed, and to tolerate and even welcome differences of opinion on other matters.⁶⁸ Muḥammad Āl Kāshif al-Ghiṭā' expresses the belief that despite the difference in creed concerning the Imamate, Sunnīs and Shī'īs can accept each other as fellow Muslims.⁶⁹

In connection with his work in this area Shaltut corresponded with several eminent Shī'ī scholars, including the aforementioned Muḥammad al-Ḥusayn Āl Kāshif al-Ghiṭā' from Iraq, Sharaf al-Dīn al-Mūsawī from Lebanon, and Muḥammad Ḥusayn Āqā Burūjirdī from Iran.⁷⁰ He also exchanged letters with the foremost Shī'ī authority in Iraq, al-Imām Muḥammad al-Khāliṣī.⁷¹ In a meeting between Shaltut and Muḥammad Taqī al-Qummī, it was agreed to implement a project whereby a collection of aḥādīth recognised by both Sunnīs and Shī'īs would be compiled.⁷²

⁶⁷Ibid., pp. 34-35 and 288-89.

⁶⁸Ṣafha Baydā'..., p. 653, and Risālat al-Islām, 1 (1949), p. 93.

⁶⁹Da'wat al-Taqrīb, pp. 289-90.

⁷⁰Ṣafha Baydā'..., p. 654.

⁷¹See Risāla wa-jawābuha, in Majallat al-Azhar, 30 (1958/59), pp. 761-63 for a copy of his congratulatory letter to Shaltut on his appointment as Shaykh al-Azhar and the reply.

⁷²Ibid., pp. 654-56.

The freedom to objectively compare the opinions of the various madhāhib was a corollary of taqrīb, and Shaltut had an active academic interest in comparative jurisprudence, as we shall see in Chapter Three. He sometimes issued fatwās which gave preference to the Shīcī opinion; as examples of instances in which he preferred the Shīcī opinion, he mentioned two types of divorce - "conditional" divorce and the triple irrevocable divorce where the three pronouncements are made on a single occasion - both of which are not recognised by the Shīca.⁷³

As Shaykh al-Azhar Shaltut remained firm in his desire for taqrīb, and issued a controversial fatwā in which he declared that worship according to a Shīcī madhhab was equally legitimate as worship according to a Sunnī madhhab.⁷⁴ As we shall see presently, the establishment of the Islamic Research Academy in accordance with the 1961 reform law represented a fulfilment of Shaltut's longstanding ambition of bringing the Sunnīs and Shīcīs closer together.

With his appointment to the rectorship, it seemed that Shaltut would at last have an opportunity to implement his reform ideas. In interviews given to journalists soon after his appointment, he stated that he still adhered to the views expressed in his 1943 lecture and made it clear that he still looked for radical reform, expressing optimism that this could be achieved in the

⁷³Arā' wa-Ahādīth, Majallat al-Azhar, 30 (1958/59), section preceding Part 8 (Feb. 1959), 22nd page (no page numbers).

⁷⁴Two Historical Documents, Cairo: Dar al-Taqrīb, 1383 AH, pp. 14-16.

present circumstances (i.e. the interest taken by the government in the reform of the Azhar). He emphasised the need for the Azhar to produce not just teachers but competent scholars who could exercise ijtihād, as well as the need to modernise textbooks and clarify the aims of fiqh (jurisprudence), relating it to everyday life. He also referred to the need for a centralised administration at the Azhar, and the importance of the teaching of foreign languages.⁷⁵

There were various political reasons why reform had not up until that time been implemented. In the absence of a unified bid for reform from within the Azhar, external pressure was needed; up until 1952 the existence of two opposing power blocs vis a vis the Azhar, namely the Palace and the government, had often blocked reform attempts and resulted in stalemate.⁷⁶ After the Revolution there was at last a unified political leadership. In view of the conflict between al-Ikhwān al-Muslimūn and the Free Officers, which resulted in the outlawing of the former in 1954, it was essential for Nasser to seek religious credibility elsewhere. The ‘ulamā’ had in any case always been of political importance in view of their influence over public opinion, and successive governments had attempted to exercise greater control

⁷⁵See ibid., interviews with al-Masā’ and al-Sha‘b (no page numbers). Shaltut did in fact implement the teaching of foreign languages at the Azhar immediately after his appointment to the rectorship; for the text of this resolution see ‘Adad Mumtāz, last pages.

⁷⁶See Crecelius, op. cit., passim, for a detailed description of these political vicissitudes.

over the Azhar. By the late 'fifties Nasser's power was sufficiently consolidated for him to take on the Azhar, which had until then more or less successfully resisted external interference in its affairs. Shaltut's appointment by the government to the highest position in the Azhar in 1958 was doubtless due to his longstanding involvement with the reform movement and the wide respect he had gained; his reputation would lend credibility to the government-sponsored reform plans for the Azhar.

It is not within the scope of this work to describe in detail the far-reaching changes in administration, organisation and curriculum involved in the reform law (Law No. 103) which was passed by the National Assembly in June 1961, nor to evaluate its ultimate degree of success which could not in any case become clear until after Shaltut's death. Such information can be found in specialist works on the Azhar. Here we will deal with the underlying principles of the reform and the points which bear some relation to Shaltut's own reform ideas.⁷⁷

One of the main aims of the new reform was to break down the barriers that existed between the Azhar and the state educational system.⁷⁸ This was to be achieved by broadening the curriculum so

⁷⁷The text of Law no. 103 ("Qanūn Taṭwīr al-Azhar") is reproduced in several Arabic works on the Azhar, including Al-Azhar fī Ithnā ʿAshara ʿĀmm, Cairo: Dār al-Qawmiyya li'l-Tibāʿa wa'l-Nashr, n.d., pp. 102-28. There is an English translation entitled Law No. 103 for 1961: reorganising al-Azhar, Cairo: Al-Azhar University, 1961.

⁷⁸Al-Azhar fī Ithnā ʿAshara ʿĀmm, p. 101.

that Azhar graduates could compete in the labour market with the graduates of state universities and institutions, and be productive members of society by having qualifications in a profession other than religion; in fact the new slogan was that religion was not a profession in its own right.⁷⁹ Accordingly new faculties were to be opened at the Azhar in Business and Administration, Engineering and Crafts, Agriculture, and Medicine.⁸⁰ The system of formal qualifications was to be unified so that there would be greater freedom of movement between the Azhar and state institutions.⁸¹

The Azhar was to consist of five institutions: the Supreme Council (al-Majlis al-A'la), the Islamic Research Academy (Majma' al-Buḥūth al-Islāmiyya), the Islamic Culture and Missions Department (Idārat al-Thāqafa wa'l-Buḥūth al-Islāmiyya), the University itself, and the Azhar Institutes (i.e. the institutes affiliated to the Azhar where education at the primary and secondary levels took place).⁸² The regulations governing the composition of the Supreme Council ensured that the government held the balance of power in decision-making.⁸³

Shaltut was involved in the planning of the Research Academy, which in some respects represented the culmination of some of his

⁷⁹Crececius, op. cit., pp. 352-53.

⁸⁰Al-Azhar fī Ithnā 'Ashara 'Āmm, p. 110.

⁸¹Ibid., p. 101.

⁸²Ibid., p. 104.

⁸³Crececius, op. cit., p. 356.

original suggestions regarding Jamā'at Kibār al-ʿUlamā'.⁸⁴ The Academy was in fact a continuation of that body, members of whom were automatically qualified for membership of the new Academy. It was to be of an international character, transcending sectarian divisions. It was to consist of fifty members from the five madhāhib (i.e. the four Sunnī schools and the mainstream Shīʿī school, the Imāmī), a maximum of twenty of whom would be from the United Arab Republic. Its aims were to renew Islamic culture, purify it from foreign elements and clarify the essential core of the religion, and work for the removal of sectarian fanaticism.⁸⁵ By its very nature and composition, the Academy would promote the international role of the Azhar and end its former isolation.

The Culture and Missions Department was to concern itself with matters relating to publication, translation, foreign missions and preaching, and the reception of foreign students.⁸⁶ The University itself was to actively develop links with foreign universities and Arabic and Islamic institutions.⁸⁷ The government backed up its reform programme by appointing ʿulamā who had received post-graduate education at European universities to senior posts in the Azhar.⁸⁸

⁸⁴Al-Madanī, Ṣafha Baydā'..., p. 656.

⁸⁵Al-Azhar fī Ithnā ʿAshara ʿĀmm, pp. 106-7.

⁸⁶Ibid., p. 108.

⁸⁷Ibid., p. 110.

⁸⁸Lemke, op. cit., p. 165.

It emerges that there is a degree of correspondence between the reform ideas of al-Marāghī and Shaltut and the aims of the 1961 law. In particular the aims of broadening and modernising of the curriculum and learning materials, the elimination of madhhabiyya and the concentration on the core elements of the religion, and the development of external relations can all be seen to have their origins in the demands of Azhari reformers from Muḥammad 'Abduh's time onwards.

It is difficult to ascertain Shaltut's real attitude towards the government reforms. He publicly expressed confidence in it, praising the law in general terms for its aims of unifying the country and integrating men of religion into the community, improving standards and tackling the unemployment problem of ʿulamā'.⁸⁹ There is no doubt that any Azharī would have preferred reforms to have come from inside the Azhar rather than by governmental decree;⁹⁰ and it seems that there was some difficulty in establishing a good working relationship between the Azhar Shaykhs, including Shaltut, and the officials appointed by the government to the new ministry for Azhar affairs.⁹¹

⁸⁹Shaltut, Risālat al-Azhar fī daw' Qanūnihi al-Jadīd, in Majallat al-Azhar, 33 (1961/62), pp. 779-82 passim; here he supports the government line that religion is not a profession in its own right.

⁹⁰Creceilius depicts the Azhar Shaykhs as being unhappy with the reforms but almost bullied into accepting them - see op. cit., pp. 347-48.

⁹¹See Creceilius, op. cit., p. 346, and Muḥammad al-Bahī (government minister for Azhar affairs 1962-64), Hayāti fī Rihāb al-Azhar, Cairo: Maktabat Wahba, 1982, pp. 64-65, where some personal conflict between Bahī and Shaltut is indicated.

However, in view of past failures Shaltut probably accepted that only the government had the ability to effect meaningful reform. Being a man of positive thought, Shaltut had the choice of cooperating with the government and having some say in the reforms, or of resigning. The former course must have seemed the most constructive; once having chosen it, it would be characteristic of Shaltut to publicly endorse it wholeheartedly, thereby increasing its chances of success.

In his opening addresses to the newly formed Azhar Planning Committee (Hay'at al-Takhtīṭ), Shaltut applauds Nasser for implementing a programme that will end the harmful cultural dichotomy which has arisen between those educated in the Azhar system and those who receive a state education. Under the new system, Shaltut optimistically asserts that all will be able to benefit from the best of both worlds and that the learning of the Qur'an by heart will form the basis of both systems. With the introduction of the new secular disciplines such as medicine, "the Azharī doctor will be able to treat the heart and soul as well as the body".⁹²

Writers on Shaltut vary in their opinions as to the extent to which his own ideas reached fruition in the 1961 law.⁹³ Although the 1961 reform exceeded the demands of the Azhari reformers, it

⁹²Shaltut, Ārā' wa-Aḥādīth: Kalimat al-Ustādh al-Akbar fī Hay'at al-Takhtīṭ, in Majallat al-Azhar, 33 (1961/62), pp. 506-8.

⁹³Cf. al-Zayyāt, op. cit., p. 644, and °Allām, op. cit., p. 162, who are both optimistic, and °Abd al-Rāziq, op. cit., p. 153, who is rather less so.

was not on the whole incompatible with them. Our own feeling is that the fact that reform had to be implemented by the government does not detract from Shaltut's own personal achievement, or negate his significant contribution to the reform movement over more than half a century at the Azhar.

CHAPTER ONE

SHALTUT AS MUFASSIR

In order to place Shaltut's work within the context of tafsīr as a whole, it is necessary to trace briefly the historical evolution of tafsīr, concentrating on those aspects which have some bearing on the development of tafsīr in the modern age.

1) Tafsīr: Definition and Outline History

Tafsīr is the verbal noun of the verb fassara, meaning: "He discovered, detected, revealed, developed, or disclosed, a thing that was concealed or obscured...he rendered a thing apparent, plain or clear; explained, expounded, or interpreted it."¹ The word "tafsīr" occurs in Qur'an 25:33 meaning "explanation".

The word was used in connection with verses of the Qur'an by the Companions,² and thereafter gradually acquired its technical character as Muslim scholarship developed, applying both to the science of Quranic exegesis and as a noun to denote complete commentaries.

Classical definitions of tafsīr generally put forward the

¹See Lane's Arabic-English Lexicon under fasara.

²See A. J. Wensinck, Concordance de la Tradition Musulmane, s.v. fassara, for several aḥādīth.

opinions regarding its relation to "ta'wīl",³ but this debate has lost much of its importance in the modern period.⁴

a) The Early Development of Tafsīr

While the Prophet was alive, he naturally explained the meanings of Quranic verses to the Companions as the need arose; the Qur'an itself refers to his role of clarifying the Qur'an: "And We revealed to you the Reminder (Qur'an) so that you may make clear to men what has been revealed to them..." (16:44). After his death, Muslims wishing to know the meanings of verses which were not clear to them, or which were not clarified by other parts of the Qur'an, would seek out someone who had heard an explanation from the Prophet.

Thus in its early stages tafsīr could be described as a branch of ḥadīth, relying almost solely on transmitted knowledge (riwāya). The great reluctance of the Companions to interpret verses on the basis of their own opinions is reflected in ahādīth such as: "Whoever gives a personal opinion with regard to the Qur'an, even if he be right, is in error".⁵ This attitude towards tafsīr may be explained by various factors: the Companions' piety

³See, e.g., al-Tahānawī, Kashshāf Iṣṭilāḥāt al-Funūn, s.v. tafsir.

⁴It is noteworthy that the modern commentators talk only about tafsīr al-Qur'ān and not ta'wīl.

⁵Related in Tirmidhī, Sunan, Kitāb al-Tafsīr, Ch. 1, and Abū Dāwūd, Sunan, Kitāb al-^cIlm, Ch. 5.

and fear of telling a lie against God,⁶ their relatively simple way of life, which meant that comparatively few new questions arose needing answers from the Qur'an, and their emphasis on practical rather than theoretical matters. This latter point is illustrated by an anecdote about ʿUmar ibn al-Khaṭṭāb, who, it is related, read the phrase "wa-fākihātan wa-abban" (Qur'an 80:31) from the pulpit, asked about the meaning of the word "abb", then pulled himself up saying: "This is affectation (takalluf), oh ʿUmar".⁷

In spite of the scruples about Quranic commentary, some of the Companions did use their special knowledge as an aid to understanding the Qur'an, and many scholars have recognised the superiority of tafsīr from the Companions over that of later generations for various reasons: they are likely to have heard it from the Prophet, and even if they didn't, their close contact with him and knowledge of the circumstances of revelation, as well as their familiarity with the Arabic language as used at the time of the revelation, in addition to the fact that they put the Quranic precepts into practice immediately, all ensured their superiority in the sphere of tafsīr.⁸ Ibn ʿAbbās (d. 68 A.H.) used his wide knowledge of pre-Islamic poetry in order to clarify

⁶Amīn al-Khulī, Manāhij Tajdīd fi al-Nahw wa'l-Balāgha wa'l-Tafsīr wa'l-Adab, Cairo: Dār al-Maʿrifa, 1961, p. 273.

⁷Story quoted by Muḥammad Ḥusayn al-Dhahabī, Al-Tafsīr wa'l-Mufasssīrūn, 3rd ed., 2 vols., Cairo: Maktabat Wahba, 1985, 1:37.

⁸Cf., e.g., al-Dhahabī, op. cit., 1:95-6, and ʿAbd Allāh Maḥmūd Shihāta, Tārīkh al-Qur'ān wa'l-Tafsīr, Cairo: Al-Hay'at al-Miṣriyyat al-ʿĀmma li'l-kitāb, 1972, pp. 90-91.

meanings of certain Qur'anic words; this was undoubtedly a kind of ijtihād.⁹

Generally speaking, tafsīr in the age of the Companions was not tafsīr of the whole Qur'an, but only of those words and phrases which were difficult to understand; it was usually confined to general meanings and brief lexical explanations, and it was not written down.¹⁰

b) The Classical Tafsīrs

Caution as regards the use of ra'y (personal opinion) remained a prominent factor at least until the time of Ibn Jarīr al-Ṭabarī (d. 310 A.H.), whose "Jāmi' al-Bayān fi Tafsīr al-Qur'ān" represents the culmination of tafsīr bi'l-ma'thūr (tafsīr relying on transmitted material), comprising as it does most of the reports contained in previous tafsīrs of the Companions and Followers, the majority of which have been lost to us. The fact that this work, which is the most important source of tafsīr bi'l-ma'thūr, is also considered an important source of tafsīr bi'l-ra'y, containing critical evaluation of aḥādīth, grammatical comment, the derivation of legal principles, etc.,¹¹ demonstrates that it is not a question of clearly demarcated categories but

⁹Al-Dhahabī, op. cit., 1:69.

¹⁰Ibid., 1:97-98.

¹¹Ibid., 1:144; Shihāta, op. cit., p.98; it also contains some lengthy polemics, putting forward the orthodox Sunni view vis-a-vis that of such theological sects as the Qadariyya - cf., e.g., Sūrat al-Fātiha, under "iyvāka nasta'īn".

rather a matter of emphasis. The fact is, however, that although there were one or two important tafāsīr bi'l-ma'thūr written in later centuries, such as that of Ibn Kathīr (d.774 A.H.), and although even tafsīr bi'l-ra'y contained transmitted material, this material was by its very nature finite, and moreover did not cover the whole of the Qur'anic text; the ahādīth contained in the tafsīr sections of the hadīth collections cover only about one eighth of the Qur'an.¹² It was inevitable, therefore, that tafsīr should branch out in other directions.

We should also mention some of the external factors which profoundly influenced Muslim scholarship. With the beginnings of sectarian strife, from 40 A.H. onwards, the various factions naturally sought authority for their own beliefs in the Qur'an; the large numbers of new, non Arab-speaking converts in the conquered lands meant that the Qur'an was less easily understood and therefore needed more thorough interpretation; the rapid expansion of the area under Islamic rule brought practical problems of a more complex nature for which solutions were sought in the Qur'an; and eventually, in the Abbasid period, a new generation of Muslim scholars, who had a more settled way of life and more leisure to study, brought the intellectual tools of older civilisations, such as the Persian and Greek, to bear in their tafsīrs.¹³

¹²Amīn al-Khūlī, op. cit., pp. 273-4.

¹³Cf. Shihāta, op. cit., p. 115: "thumma taḥawwala'l-Qur'ān ilā kitāb dirāsa, ba'da 'an kāna dustūr al-ḥayāt".

With these developments, tafsīr became a science in its own right which dealt with all or most of the verses in the Qur'an (tafsīr musalsal). At the same time, the place of ra'y steadily gained ground, resulting in greater diversification and more controversy.¹⁴ On the one hand, then, the science of tafsīr was enriched in some respects by these developments, while on the other, there were some undesirable side-effects which later scholars, particularly in the modern age, have not been slow to point out.

Not least was the growth of sectarianism in tafsīr, "each man seeking in the Qur'an that which would strengthen his view and support his madhhab (sect or school of thought, usually legal or theological), and each finding what he sought even if it meant subjugating the Quranic verses to his madhhab".¹⁵

Another undesirable development, not unrelated to the growth of sectarianism, was the proliferation of ahādīth of dubious authenticity which found their way into tafsīrs. Ahādīth in tafsīr were not vetted to the same extent as those in the ḥadīth collections; it is said even of al-Tabari, who was recognised as a scholar of ḥadīth, that "even though he cited the isnāds, he reported such a great quantity of material that he included some

¹⁴There was continuing disagreement, too, as to the limitations on the use of ra'y, and as to where the dividing line between al-ra'y al-jā'iz (permissible ra'y) and al-ra'y al-madhūm (reprehensible ra'y) lies. See al-Dhahabī, op. cit., 1:263, for a brief list of things a mufassir should avoid in this respect.

¹⁵Al-Dhahabī, op. cit., 1:343.

which was not reliable".¹⁶ After al-Ṭabarī, the situation deteriorated and isnāds were shortened or omitted altogether.¹⁷

Tafsīr bi'l-ma'thūr has also been criticised for its inclusion of isrā'īliyyat - reports from converted Jews and Christians who brought their own religious heritage to bear on the stories and other material related in the Qur'an. Stories which were dealt with briefly in the Qur'an, which concentrates on the moral aspect of stories rather than historical detail, were told at length in the Jewish and Christian sources, therefore the temptation was great; but while the Companions asked only about generalities, subsequent generations grew more curious and were interested in such details as the exact details of the food which was on the table requested by the disciples (and which may or may not have been sent down). Al-Ṭabarī lists the various conflicting versions at great length, and even al-Zamakhsharī gives these details in his "Al-Kashshāf 'an Haqā'iq Ghawāmid al-Tanzīl".¹⁸

Another important change in tafsīr came about due to the development of Muslim scholarship¹⁹ - both in the Islamic sciences such as ḥadīth, fiqh and kalām, and the more Greek-

¹⁶ Ibid., 1:156. See also Amīn al-Khūlī, op. cit., pp. 279-80.

¹⁷ Ibid., 1:198ff.

¹⁸ See their commentaries on Quran 5:112.

¹⁹ Which in its turn was of course influenced by the aforementioned external factors. For example, the need for non-Arab Muslims to understand the Qur'an gave rise to a greater philological content in tafsīr, while the fiqh content, and the specialised works on aḥkām al-Qur'ān, were a response to the practical needs of the community.

influenced branches of learning such as philosophy and the natural sciences, all of which had their influence on tafsīr which became increasingly specialised, written by religious scholars for religious scholars. The tendency to pack tafsīr with many different sciences culminated in the encyclopaedic work of

Fakhr^{al-Dīn} al-Rāzī (d. 606 A.H.), of whose tafsīr it has been said: "it contains everything but tafsīr".²⁰

For obvious reasons the linguistic element in tafsīr always remained prominent; with the elaboration of naḥw and the rise of the science of balāgha, a new dimension was added, and there was more curiosity about stylistic usage rather than just lexical explanations. The doctrine of iʿjāz (the miraculous nature of the Qur'an), gave a new impetus to these studies; the technical term iʿjāz dates back to the late ninth century A.D.²¹ Al-Bāqillānī (d. 404 A.H.) wrote an important general work entitled "Iʿjāz al-Qur'ān", but it was ʿAbd al-Qāhir al-Jurjānī (d. 470 A.H.) who first wrote extensively on the iʿjāz bayānī (stylistic or rhetorical iʿjāz) of the Qur'an, bringing out its unique stylistic qualities, in his "Dalā'il al-Iʿjāz" and "Asrār al-Balāgha". It was al-Zamakhsharī (d. 538 A.H.) who most effectively brought the science of balāgha to bear on the Qur'an, building on the work of al-Jurjānī in his tafsīr. In this work and others, the concept that there is a correct or best way of saying a thing in a given situation ("li-kulli maqām maqāl")

²⁰Al-Dhahabī, op. cit., 1:281, quoting from Kashf al-Zunūn.

²¹E.I.2, s.v. Iʿjāz, by G.E. von Grunebaum.

meant that the Qur'anic text was analysed in minute detail to discover the exact effect of or reason for a particular grammatical construction, word order, etc., especially where the text deviated in some way from normal usage.

However, language and style were not the only criteria by which the Qur'an was considered miraculous. Al-Rāzī's tafsīr, "Mafātih al-Ghayb", while it has a substantial balāgha content, concentrates more on the miraculous nature of the Qur'an as regards natural phenomena and sciences (icjāz cilmī).

It may be fruitful here to mention Sufi tafsīr; just as Sufism has made an acknowledged contribution to mainstream Sunni Islam, and indeed has become virtually identified with it in some cases, so Sufi tafsīr contains some material which is relevant for and useful to the Sunnī community. Of the two trends in Sufi tafsīr, tafsīr ishārī (intuitive tafsīr) is more acceptable in orthodox circles than tafsīr nazārī (speculative tafsīr), which subjects the Qur'an to philosophical theories and interprets the text in a somewhat dogmatical fashion, claiming that it does not allow other meanings. Those who apply the method of tafsīr ishārī, on the other hand, rely more on spiritual intuition and believe that the Qur'anic verses can have more than one possible meaning; thus they do not deny the obvious or apparent (zāhir) meaning of the verse.²² This intuitive type of tafsīr has existed since the beginning of Islam, and some Qur'anic verses exhort men to reflect on (tadabbara) the Qur'an, implying that it contains depths of

²²Al-Dhahabī, op. cit., 2:338.

meaning not immediately apparent; this may be the "inner" (bāṭinī) meaning of the Qur'an to which Sufi's often refer.²³

Accordingly, this type of tafsīr may be accepted by orthodox Muslims provided that (a) it is linguistically sound, and (b) there is some kind of evidence to support it, and it does not contradict the accepted sources. (Most works of tafsīr ishārī, however, contain material which does not fulfil these criteria alongside material which does.)²⁴ Nevertheless many orthodox ʿulamā' have a favourable opinion of tafsīr ishārī,²⁵ for it is undoubtedly desirable to reflect deeply on the meaning of the Qur'an.²⁶

Before moving on to the modern period, we will briefly mention two other tafsīrs which are still very popular today. Al-Bayḍāwī (d. 685 A.H.) in his "Anwār al-Tanzīl wa-Asrār al-Ta'wīl", drew extensively on al-Zamakhsharī, particularly with regard to balāgha, and also on al-Rāzī. His popularity can be partly attributed to the fact that he is more concise than these two, and he represents the orthodox Sunnī viewpoint, purging al-Zamakhsharī's material of Mu'tazilī deviations, with a few

²³Ibid., 2:339. See also p. 341 for examples of this type of tafsīr among the Companions.

²⁴Ibid., 2:344.

²⁵Ibid., 2:353-55.

²⁶A description of some of the main works of tafsīr ishārī can be found in al-Dhahabī, op. cit., 2:364-98. Shī'ī tafsīr is not discussed here because, generally speaking, it bears little relation to Sunnī tafsīr.

inadvertant exceptions.²⁷ "Tafsīr al-Jalālayn", begun by Jalāl al-Dīn al-Maḥallī (d. 864 A.H.) and completed by Jalāl al-Dīn al-Suyūṭī (d. 911 A.H.), is still highly popular because of its extreme brevity and relative simplicity; it often simply gives easily understandable synonyms of Quranic words by way of comment. However, it also contains some technical grammatical material, and it is noteworthy that even this tafsir was written for a specialist audience, i.e. students of grammar.

Generally speaking, one may say that from al-Baydāwī's time up until fairly recent times, tafsīr activity was largely confined to unoriginal works based on previous authorities or commenting and elaborating on earlier tafsīrs.²⁸ This corresponds with the "age of stagnation" widely cited by historians of Islamic civilisation. It was in the late nineteenth century, within the context of the Arab-Islamic revival (nahḍa), that new developments in tafsīr began to emerge.

c) Tafsīr in the Modern Period

Western supremacy represented a threat to the Muslims on many levels, the most traumatic being the threat to Islam itself. Although in the past Muslim lands had often been conquered or controlled by foreign powers, those powers had nearly always been Muslim - or else subsequently converted to Islam. In the colonial

²⁷Al-Dhahabī, op. cit., 1:283-84.

²⁸See ibid., 1:151 under the heading: "Tawassuḥ mutaḡaddimī al-mufasssīrīn qaḥada bi-muta'akkkhīrīhim ḥan al-baḥth al-mustaḡill".

age, for the first time large numbers of Muslims were having to live under non-Muslim rule. This new state of affairs shocked them out of the complacent presumption that Islam and Muslims would always prevail; it seemed to cast doubt on the very words of the Qur'an which guaranteed God's help to the Muslims (e.g. 30:47). It may not be an exaggeration to say that Muslims developed an inferiority complex, incompatible with a feeling of pride in one's religion.

In times of conflict or crisis, Muslims have always sought guidance or support for their views in the Qur'an; it was natural, therefore, that tafsīr should be an important vehicle for the response to the Western challenge,²⁹ and that there should be a renewed interest in tafsīr at this stage. Nor was it surprising that, for the Arabs at least, this response should come initially from an Azharī scholar at a time when Egypt had been facing urgent socio-political problems since its occupation in 1882 by a foreign power - the British.³⁰ We are talking, of course, of Muḥammad ʿAbduh (1849-1905), who was a pioneer not

²⁹See ʿIffa Muḥammad al-Sharqāwī, Al-Fikr al-Dīnī fī-Muwājahat al-ʿAsr (dirāsa tahlīliyya li-ittijahāt al-tafsīr fī'l-ʿasr al-ḥadīth), 2nd ed., Beirut: Dār al-ʿAwda, 1979, p. 45, where he illustrates the way in which Muslims have used tafsīr as a response to the threat posed by foreign cultures in the past.

³⁰This type of response was somewhat earlier in India (see, e.g., J.M.S. Baljon, Modern Muslim Koran Interpretation (1880-1960), Leiden: E.J. Brill, 1968, Introduction, passim; apart from the language difference, however, writers like Aḥmad Khan do not have the same academic background as Muḥammad ʿAbduh and his followers with whom we are concerned here.

only in the reform of the Azhar but in modern Islamic thought generally and tafsīr in particular.

i) Muḥammad ʿAbduh's tafsīr

His main exegetical work, "Tafsīr al-Manār",³¹ was actually written down by his Syrian pupil, Muḥammad Rashīd Riḍā (1865-1935). Up until Qur'an 4:125 this tafsīr was directly based on Muḥammad ʿAbduh's lectures and the manuscript was approved by him. After his death, Rashīd Riḍā continued the tafsīr up to Qur'an 12:107;³² it fills twelve volumes of about five hundred pages each. The importance of this tafsīr can scarcely be overrated as it influenced to a greater or lesser extent nearly all those which came after it. In view of this fact, we will deal with it in some detail.

In the preface and introduction to Tafsīr al-Manār,³³ the authors express their views on tafsīr, and of what it should or should not consist. Their practical approach to the Qur'an is much in evidence:

The tafsīr which we aim at is to understand the Book as a path (dīn) which guides people to that which will give them happiness in this life and

³¹Muḥammad ʿAbduh has also written three other short works on tafsīr: Tafsīr Juz' ʿAmmā, (Cairo 1322 AH), Tafsīr Sūrat al-ʿAsr, (Cairo 1903), and Fātiḥat al-Kitāb (Cairo 1382 AH).

³²C.C. Adams, Islam and Modernism in Egypt, London: Oxford University Press, 1933, p. 199.

³³The Preface (Fātiḥat al-Tafsīr) is by Rashīd Riḍā and the Introduction (Muqaddimat al-Tafsīr) is based on Muḥammad ʿAbduh's lectures; the aims set out in them are essentially the same.

the next, for this is its highest aim, and all other endeavours are subordinate to this or a means of attaining it.³⁴

The emphasis on bringing out the guidance contained in the Qur'an entails a disapproval of anything that diverts attention to less vital concerns; the traditional type of tafsīr which concentrates on grammar, lexicography, theology, etc., is described as "dry, alienating (the reader) from God and His Book", and such studies "should not be called tafsīr, but are simply an exercise in various sciences such as grammar, ma'ānī, etc."³⁵ While acknowledging that a knowledge of grammar, rhetorics, jurisprudence and other things help in understanding the Qur'an, Rashid Rida deplors the fact that often discussions on the finer points of grammatical and rhetorical usage, as well as theological controversies, the reasonings of the scholars of usūl and the jurists who practice taqlīd, the interpretations (ta'wīlāt) of the Sufis, sectarian polemics and scientific data of various kinds "distract the reader from these lofty aims and this sublime guidance".³⁶ Similarly, while there is a small proportion of ahadīth which are genuine and essential for tafsīr, the greater part of tafsīr bi'l-ma'thūr consists of unreliable

³⁴Tafsīr al-Manār, 12 vols, Cairo: Maṭba'at al-Manār, 1324-26 AH, 1:17.

³⁵Ibid., p. 24; there is no suitable translation for ma'ānī - for a description of this science see E.I.2, s.v. "Al-Ma'ānī wa'l-Bayān".

³⁶Ibid., p. 7.

reports and isrā'īliyyāt;³⁷ moreover, "much of what has been related in tafsīr bi'l-ma'thūr draws a veil over the Qur'an and diverts the reader's attention from its higher aims".³⁸

On the positive side, tafsīr should be written "in a manner which attracts people and draws them towards (right) action and guidance".³⁹ Muḥammad ʿAbduh aimed to "observe the requirements of the age as regards simplicity of expression, bearing in mind the varied levels of understanding of the readers".⁴⁰

These stated aims and beliefs are generally borne out in the actual text of Tafsīr al-Manār. The belief that tafsīr is first and foremost an instrument of guidance entails an emphasis on the practical and social aspects of moral teachings. For example, "ṣabr" is taken to be an active quality of steadfastness and perseverance, not the passive quality of mere patience, which suggests resignation;⁴¹ On the subject of ṣabr, Muḥammad ʿAbduh quickly progresses to talk about its importance for society as a whole: "A nation whose members are lacking in ṣabr will be weak in every way...", attributing among other things ignorance or educational backwardness (naqṣ al-ʿilm) to a lack of ṣabr, since without ṣabr the individual "sleeps on a nice soft bed of

³⁷Ibid., pp. 7-8.

³⁸Ibid., p. 10.

³⁹Ibid., p. 25.

⁴⁰Ibid., p. 10.

⁴¹Ibid., 2:35-36.

taqlīd".⁴² The Quranic precept of "al-amr bi'l-ma'rūf wa'l-nahy 'an al-munkar" and its implications for corporate responsibility for the maintenance of moral standards is given much weight.⁴³ The concern with social issues is evident in all his exegetical work, and in many places specific topics are discussed at length.⁴⁴

The authors' cautious attitude with regard to ahādīth is particularly evident when they are dealing with mubhamāt (those things in the Qur'an which are obscure, ambiguous, etc.). Where there is no reliable authority, unlike most earlier mufassirūn they prefer to leave the question open, resisting the temptation to supply even a weak hadīth rather than nothing - particularly where the question is of no practical import.⁴⁵

There is no doubt that they largely succeed in their aim to produce a more simple, direct form of tafsīr, uncluttered by unnecessary technical terms; the language is eloquent and appealing, and relatively easy for the layman to understand - a suitable vehicle for the exhortation of the Muslims in general. However, there are long passages where scholarly issues are discussed, as where fifty-four pages are devoted almost entirely

⁴²Al-Dhahabī, op. cit., 2:537-38, quoting from Majmū'at Tafsīr al-Fātiḥa wa Sitta Suwar min Khawātim al-Qur'ān.

⁴³See, e.g., Tafsīr al-Manār, 4:25-29.

⁴⁴E.g. Ibid., 4:364-70 (polygamy), 4:122-31 (usury), and 8:508-22 (homosexuality).

⁴⁵See 'Abd Allāh Maḥmūd Shihāta, Manhaj Muḥammad 'Abduh fī Tafsīr al-Qur'ān al-Karīm, Cairo: Maktabat Wāḥba, 1963, pp. 137ff. and al-Dhahabī, op. cit., 2:534-37 for examples.

to a discussion of the sources of law.⁴⁶ Rashīd Riḍā in particular is prone to lengthy digressions,⁴⁷ which in some cases at least may be said to "consume the reader's energy and turn his mind away from the Quranic verses".⁴⁸

One major concern which comes out in the text is the defence of Islam, and the desire to show that it is compatible with modern civilisation.⁴⁹ To this end, Muḥammad ʿAbduh and Rashīd Riḍā stress the rational character of Islam, and this is done in various ways: firstly, by showing that there is no essential incompatibility between reason and revelation and by attempting to define their complementary roles;⁵⁰ secondly, by emphasising Islam's enlightened attitude with regard to knowledge, i.e. the fact that it encourages people to think and reflect and acquire knowledge, and by bringing out the implications of this with regard to ijtihād and taqlīd;⁵¹ and thirdly, by attempting to

⁴⁶Tafsīr al-Manār, 5:168-222.

⁴⁷By his own admission - see ibid., 1:16, where he justifies this by the Muslims' great need for knowledge of certain matters.

⁴⁸Shihāta, op. cit., p. 237.

⁴⁹See, e.g., sub-headings beginning on Tafsīr al-Manār, 2:244, such as "al-Islām dīn al-fiṭra", "al-Islām dīn al-ʿaql wa'l-fikr", etc.

⁵⁰See, e.g., J. Jomier, Le Commentaire Coranique du Manar, Paris: Editions G.P. Maisonneuve & Cie., 1954, pp. 79ff.

⁵¹Shihāta, op. cit., pp. 71ff.; for the attitude to taqlīd, see Tafsīr al-Manār, 11:252-53, under heading: "Taqlīd and the rigid adherence to the practice of one's forefathers is prohibited".

purge the religion of all irrational or superstitious elements, such as magic, miracles, the cult of saint-worship, etc.⁵²

Another way of demonstrating Islam's compatibility with the modern world is to show how some widely accepted scientific theories, such as the theory of causality, are in keeping with the teachings of Islam;⁵³ these are often described as "God's laws" (sunan Allāh). Thus Islam is seen as the religion of nature (fitra), i.e. it is both fully in accordance with natural laws, and perfectly suited to man's nature.⁵⁴

Scientific tafsīr proper was considered to be an unnecessary diversion from the main aims of the Qur'an;⁵⁵ however, it was considered important that the Quranic text did not in any way contradict the findings of modern science. Muḥammad ʿAbduh and Rashīd Riḍā went a stage further than this, claiming that reference in the Qur'an to some scientific knowledge which was not available at the time of revelation was a proof of its icjāz.⁵⁶ It seems, moreover, that they could not resist some allusions to specific modern scientific theories, such as

⁵²Shihāta, op. cit., pp. 105ff.

⁵³Tafsīr al-Manār, 5:269.

⁵⁴See e.g. ibid., 11:244-46.

⁵⁵Ibid., 1:7; the phrase "baʿ d al-muʿāsirīn" no doubt refers predominantly to Ṭaṇṭāwī Jawharī (d. 1934), another pupil of Muḥammad ʿAbduh.

⁵⁶Ibid., 1:210ff. under the heading: "Icjāz al-Qur'ān bi-taḥqīq masā'il kānat majhūlatan li'l-bashar".

Darwin's theory of evolution, in relation to certain Quranic verses.⁵⁷

Not unrelated to the defence of Islam is the desire to highlight the unique literary qualities of the Qur'an, and thus confirm its miraculous nature. Apart from the comments on points of balāgha throughout the text,⁵⁸ there is a discourse on the miraculous qualities of the Quranic stories, with regard to both their language and content.⁵⁹ This is one of the characteristics of Muḥammad 'Abduh's school of tafsīr, which has been called the "socio-literary" school of tafsīr.⁶⁰

Before moving on to Muḥammad 'Abduh's followers, however, we should pause in order to put his contribution to tafsīr into clearer perspective, and to identify those elements of his work which were original and new, and those which were old but to which he brought new emphasis, and those things in which he was simply a product of his age.

To say that the Qur'an is a source of guidance is of course nothing new, and the Qur'an itself states this repeatedly; but Muḥammad 'Abduh was the first mufassir specifically to state this as his main aim in tafsīr, to which all else was subordinate. This may be seen as a turning point in tafsīr.

⁵⁷See, e.g., Ignaz Goldziher, Madhāhib al-Tafsīr al-Islāmi, tr. 'Abd al-Halīm al-Najjār, 2nd ed., Beirut: Dār Iqra', 1983, pp. 382-83, and al-Dhahabī, op. cit., 2:541-43.

⁵⁸See Jomier, op. cit., pp. 56-7 for some examples.

⁵⁹Tafsīr al-Manār, 12:40ff.

⁶⁰Al-Dhahabī, op. cit., 2:523.

His tafsīr also represents the first conscious attempt to popularise tafsīr and appeal to a wider audience. It must be said that the time was ripe for such a development; literacy was now no longer the prerogative of the religiously trained scholars - a new audience was emerging with a more Western-style education, and the age of journalism was dawning. (Much modern tafsīr, including Tafsīr al-Manār and Shaltut's, was first published in instalments in periodicals.)

Muḥammad ʿAbduh and Rashīd Riḍā were of course not alone in calling for "the re-opening of the gate of ijtihād"; as one modern writer points out, it was more to do with the "spirit of the age" than any single mufassir, and was not confined to any particular geographical area.⁶¹ Moreover, throughout Islamic history there had always been individual scholars who rejected taglīd and claimed the right of ijtihād, and Muḥammad ʿAbduh and Rashīd Riḍā were influenced by classical authorities like Ibn Taymiyya (d. 728 A.H.) and Ibn Qayyim al-Jawziyya (d. 751 A.H.) in this regard as in others.⁶²

Similarly, the attitude towards mubhamāt and ghaybiyyāt (the unseen) reflects the more pious and reserved attitude of the Companions, and is reminiscent of Aḥmad ibn Ḥanbal (d. 241 A.H.),

⁶¹Al-Sharqāwī, op. cit., p. 123.

⁶²Shihāta, op. cit., p. 57. Rashīd Riḍā in particular quoted Ibn Taymiyya and Ibn Qayyim at length, and indeed had much in common with the Wahhābis (who base their tenets on the work of Ibn Taymiyya), particularly as regards the vehement opposition to bidaʿ (heretical innovations) in Islam such as saint-worship, and the desire for a return to the true sunna - see ibid., pp. 226-28 and Goldziher, op. cit., pp. 363ff.

who simply believed in the Qurānic tenets "bilā kayf" (without asking how).

Since early times certain Muslim scholars have expressed their doubts about the general validity of the ahādīth contained in tafsīr;⁶³ it was only in the modern era, however, that this attitude became widespread, representing a further stage in the trend away from tafsīr bi'l-ma'thūr. Similarly, the objections to sectarianism within tafsīr, which had always existed, became more conscious and articulate from Muḥammad 'Abduh's time on, and he was instrumental in this.

Thus we find conservatism alongside the concern with the modern world, a combination of elements characteristic of mufasssīrūn of Muḥammad 'Abduh's school which distinguishes them from those who go to one extreme or the other, whether it be the mugallidūn or the more extreme modernists.

When talking about Muḥammad 'Abduh's "school" of tafsīr we should bear in mind that this does not denote a specific and clearly defined group of people so much as a set of characteristics largely common to those people who, like Shaltut, have been strongly influenced by Muḥammad 'Abduh in their exegetical work. These characteristics, which have already been described with regard to Muḥammad 'Abduh, include a common attitude towards such things as sectarianism, isrā'īliyyat, weak ahādīth and mubhamāt, as well as the desire to rid tafsīr of unnecessary technical terms and to achieve a flowing, eloquent

⁶³ Amīn al-Khūlī, op. cit., p. 276.

style. Most important of all is the concern to provide guidance to Muslims in the context of the modern age, which dictates a practical rather than a theoretical bias.

ii) Between Muḥammad ʿAbduh and Shaltut

Rather than discussing those mufassirūn who could be described as belonging to this school, of whom there are many,⁶⁴ we will concentrate on a few individuals whose work or whose ideas form a significant contribution to the general developments which took place within this school of tafsīr up until Shaltut's time. The obvious person to begin with is Muḥammad Muṣṭafā al-Marāghī (1881-1945); despite the fact that his association with Muḥammad ʿAbduh was not long, he carried on the work that the latter began perhaps even more faithfully than did Rashīd Riḍā. This was due to his closer involvement in social and religious reform and his holding of senior religious posts including that of Shaykh al-Azhar. In addition to this, his personal charisma and eloquence made him more of a popular leader and preacher than was Rashīd Riḍā.⁶⁵

Like Shaltut, he did not embark on a verse by verse tafsīr of the Qur'an, in fact the number of verses he commented on is

⁶⁴ʿAbd al-Ghaffār ʿAbd al-Raḥīm, in his work, Al-Imām Muḥammad ʿAbduh wa Manhajuhu fī al-Tafsīr, Cairo: Maṭbaʿat al-Ḥalabī, n.d., describes the work of several mufassirūn belonging to Muḥammad ʿAbduh's school, such as ʿAbd al-Qādir al-Maghribī, Jamāl al-Dīn al-Qāsīmī, ʿAbd al-Ḥamīd ibn Bādīs and Muḥammad al-Tāhir ibn ʿAshūr.

⁶⁵Al-Dhahabī, op. cit., 2:563-64, and Jansen, The Interpretation of the Koran in Modern Egypt, p. 77.

relatively small.⁶⁶ They were chosen as the subjects of lectures to be delivered in mosques during Ramadan, between 1937 and 1943, so their predominantly sermon-like quality is not surprising. We will find this quality equally characteristic of Shaltut, and the similarities in the styles of the two men will become apparent in our discussion of Shaltut's tafsīr. Al-Marāghī's lectures were very popular and were broadcast by radio.

The aim of guidance may be said to be even more paramount in al-Marāghī's work than in Tafsīr al-Manār; there are no scholarly digressions to bewilder the layman. The style is fluent, persuasive, emotive:

...if it wasn't for religion, man could not endure this life, for despite its brevity it is full of trials and tribulations; there is crushing poverty, chronic illness, the loss of one's family and kinsfolk, as well as of rank and prestige, for one may go from eminence and distinction to humiliation and degradation...it is not possible for a man to bear all this unless he can look forward to an eternal life and eternal happiness; for belief in the afterlife mitigates life's harshness and gives the believer peace of mind and the strength to bear hardships and to live peaceably with his fellow men...⁶⁷

One modern writer makes the point that, being of such a general nature, much of these sermons could have come from a

⁶⁶See Al-Dhahabī, op. cit., 2:565-67 for a bibliography of his exegetical lectures.

⁶⁷Al-Dhahabī, op. cit., pp. 572-73, taken from Al-Durūs al-Dīniyya, 1365, pp. 34-36; needless to say, in order to appreciate the style one should consult the original Arabic.

Christian preacher.⁶⁸ This comment highlights the way in which the definition of tafsīr has expanded in recent times so that there is an overlap between tafsīr and general religious writings. The above passage is part of a commentary on Qur'an 42:13: "He has ordained for you the religion which He commended to Noah..."; it is easy to see how this verse may lead one to talk about religion in general, but one writer raises the question as to whether this kind of expose of the author's views, brought about by an "association of ideas", can really be called "tafsīr".⁶⁹ It is significant in this regard that, notwithstanding the fact that he occasionally comments on entire short suras, al-Maraghi has selected the verses presumably to some extent on the basis of the subjects he wished to talk about in his lectures. Thus the main aim was clearly not to analyse and dissect the Quranic text but to draw lessons from it. However, noone has suggested that such works should be considered beyond the pale of tafsīr, indeed they would conform to the most basic definition of tafsīr given by al-Dhahabī: "the science of tafsīr seeks to understand the meaning which God Almighty intended, to the limits of human capabilities".⁷⁰ Moreover the ordinary

⁶⁸Jansen, op. cit., p. 79.

⁶⁹Jomier, op. cit., p. 69; he is talking about Tafsīr al-Manār, but this tendency is even more apparent in al-Maraghi's work.

⁷⁰Al-Dhahabī, op. cit., 1:17.

meaning of the word "tafsīr" is sufficiently broad to accommodate a great variety of possibilities.⁷¹

It is observed that al-Marāghī had a more respectful attitude towards his forebears than did Muḥammad ʿAbduh and Rashīd Riḍā; of his tafsīr he wrote: "It is nothing more than the fruits of that which was planted by our ancient forebears, and flowers from their gardens."⁷² He was thus less liable to reject aḥādīth which are generally accepted as ṣaḥīḥ (genuine), whereas Muḥammad ʿAbduh did sometimes reject such aḥādīth, particularly with regard to sensitive subjects like magic.⁷³ With regard to these things, orthodox Sunnī Muslims invariably feel more comfortable with a man like al-Marāghī; al-Dhahabī commends him for not attacking other mufassirūn, as other scholars have done, saying: "this conduct is most fitting for scholars" ("hādha adab ma ajmalahu bi'l-ʿulamā'").⁷⁴ Perhaps we should not just dismiss this by saying that al-Marāghī is more orthodox or conservative; already by this time the West was less awe-inspiring, its image somewhat tarnished by the events following World War One, while Egypt had gained more confidence in its own identity. There was less need to answer to the West on all points and to rationalise away all the supernatural elements of Islam, and, conversely,

⁷¹See the first page of this chapter for the meanings of the word "tafsīr".

⁷²Al-Dhahabī, *op. cit.*, 2:568, taken from the introduction to his tafsīr of Sūrat al-Hadīd.

⁷³Ibid., 2:547-49.

⁷⁴Ibid., 2:569.

renewed confidence in the Islamic heritage. Perhaps in these respects al-Maraghi represents a more relaxed attitude and a more natural continuation of Muslim scholarship than does Muḥammad 'Abduh.

One of the major factors which prompted a greater freedom of form in tafsīr in the modern period was the new emphasis on topics dealt with in the Qur'an. Amīn al-Khūlī (d. 1967), who did not write a commentary himself,⁷⁵ but whose views on tafsīr have gained wide popularity, lays great stress on the importance of topical tafsīr (tafsīr maudūcī). He points out that because the Qur'an often deals with the same subject in many different places, it is essential for the mufassir to have in front of him all the verses on that subject; moreover he should know in which order they were revealed, as well as their circumstances of revelation, so that his understanding of the subject may be as thorough as possible.⁷⁶

This idea is not wholly new, of course; the concept of interpreting the Qur'an by the Qur'an dates back to the Companions,⁷⁷ and was after all only common sense. Moreover the Quranic science of al-nāsikh wa'l-mansūkh as well as the branch of fiqh called ta'ārūd al-adilla required a comparison of different Quranic texts relating to the same subject. However,

⁷⁵He did, however, write a short series of works entitled "Min Huda al-Qur'an...", dealing with Quranic themes such as financial legislation and Ramadan.

⁷⁶Amīn al-Khūlī, op. cit., pp. 305-6.

⁷⁷Cf. al-Dhahabī, op. cit., 1:40-47.

there was no systematic treatment of topics in tafsīr until the modern period; the nearest thing to tafsīr maudūcī would be the specialist works which dealt with a single aspect or subject matter of the Qur'an, such as the works on ahkām al-Qur'ān⁷⁸ or the work on oaths in the Qur'an by Ibn Qayyim ("Al-Tibyān fī Aḡsām al-Qur'ān"). However, Amīn al-Khūlī maintains that even such a work as this was not sufficiently thorough in following up the parallel occurrences (naẓā'ir) in the Qur'an and comparing them with each other.⁷⁹

Tafsīr al-Manār deals at some length with individual topics, often referring to other parts of the Qur'an which deal with the same topic. There is also a detailed index preceding each volume which lists all the subject matters in alphabetical order for easy reference. Moreover the text is divided into pericopes which, as far as possible, are chosen to form a natural unit dealing with a particular subject matter or aim. However this would not satisfy Amīn al-Khūlī, who maintains that dealing with the Qur'an in its tartīb maṣḥafī (the order which was definitively established in the 'Uthmanic recension and in which we find it today), means either repeating oneself where the same topic occurs in different places, or else digressing at various

⁷⁸See al-Dhahabī, op. cit., 2:420-53 for a description of several such works.

⁷⁹Amīn al-Khūlī, op. cit., p. 301.

points of the text to deal at length with a topic, thus interrupting the flow of one's tafsīr of the sura.⁸⁰

Amīn al-Khūlī's views on tafsīr maudū'ī form part of his overall approach to the Qur'an, which is primarily literary and philological. He believes that the Qur'an should be treated like any great work of literature, and be studied as such regardless of whether or not the student believes in it or seeks guidance from it.⁸¹ He rather unnecessarily takes issue with Muḥammad 'Abduh's view that guidance is the first aim of tafsīr, saying that the first aim is to look at the Qur'an "insofar as it is the greatest book of the Arabic language" ("min ḥaythu huwa kitāb al-ʿarabiyyat al-akbar"), and to fully understand the Arabic text.⁸² Presumably Muḥammad Abduh did not intend that this guidance should rest on an imperfect or faulty understanding of the text.

It is apparent here and elsewhere that Amīn al-Khūlī is an intellectual whose main interests are literary rather than a religious reformer after the pattern of Muḥammad 'Abduh; but perhaps it was natural that, the importance of social questions having been established with regard to tafsīr, some scholars should find leisure to dwell on more literary questions. The literary approach can serve the cause of Islam in its own way, by demonstrating the unique character of the Qur'an and thus increasing its influence.

⁸⁰ Ibid., pp. 306-7.

⁸¹ Ibid., pp. 303-4.

⁸² Ibid., pp. 302-3.

Under the heading: "The Literary Approach to Tafsīr",⁸³ Amīn al-Khūlī describes two types of studies which are essential to tafsīr of the Qur'an, just as with any literary text. Firstly, background studies,⁸⁴ which would include the Quranic sciences such as the circumstances of revelation, the collection of the Qur'an, readings (girā'āt), etc., as well as studies on the environment in which the Qur'an first appeared, including history, sociology, religion, and even down to such details as the geography, meteorology, geology, vegetation, etc. of seventh century Arabia, all of which go to make up the "Arabdom" (Qurūba) of the Qur'an. Secondly, the study of the Qur'an itself on various levels,⁸⁵ beginning with individual words, whose evolution (tadarruj) must be carefully traced in order to establish their meaning at the time of the revelation (he points out the inadequacy of the available lexicons in this respect); in addition to this their Quranic usage should be observed. After this one may deal with murakkabāt (phrases and sentences), and this involves the use of grammar and balāgha, but these must be used only as tools to bring out the beauty of the Quranic text. (This is the nearest Amīn al-Khūlī comes to referring to ijāz.) Apart from an extensive knowledge of Arabic and of the Quranic style, this requires outstanding aesthetic judgement (dhawq bāriq). He goes on to describe the psychological approach to

⁸³Ibid., pp. 307ff.

⁸⁴Ibid., pp. 308-12.

⁸⁵Ibid., pp. 312-17.

tafsīr (al-tafsīr al-nafsī), which is closely linked with rhetorical studies, which analyse how language achieves its effect. Such psychological studies would show how the Qur'an caused men to abandon the way of their forefathers and how it eventually brought about the triumph of the Islamic religion. He is evidently not claiming this as a totally new form of tafsīr, since he gives an example of this psychological approach from al-Zamakhsharī. Finally, at the broadest level, sociology (ʿilm al-ijtimāʿ) helps us to understand the Qur'an, which often deals with communities rather than individuals.

There are marked similarities between Amīn al-Khūlī's proposals and Muḥammad ʿAbduh's comments in the introduction to Tafsīr al-Manār, where he describes the prerequisites for a tafsīr which rises above the simplest level.⁸⁶ These include "an understanding of the true meanings of the words", for "the thorough scholar must interpret the Qur'an according to the linguistic usage at the time of the revelation", as well as observing the usage of a given word in the Qur'an itself. Second on the list is "asālīb", which involves a knowledge of grammar and balāgha, and third comes "ʿilm ahwāl al-bashar", which corresponds to Amīn al-Khūlī's "ʿilm al-ijtimāʿ", and fourthly, the way in which men have been guided by the Qur'an ("al-ʿilm bi-wajh hidāyat al-bashar kullihim bi'l-Qur'ān"), which involves a knowledge of life at the time of the Prophet. Elsewhere he mentions the importance for tafsīr of a true appreciation and

⁸⁶Tafsīr al-Manār, 1:21ff.

feel for the Arabic language ("malakat al-dhawq al-ʿarabī"), and laments the fact that this is much rarer now than it was in the first ages of Islam.⁸⁷ Thus Muḥammad ʿAbduh mentioned, albeit less systematically, many of the points which Amin al-Khuli talks about.

However, we do not find in Tafsīr al-Manār evidence of the degree of philological analysis or background studies which Amīn al-Khulī would like, and it is unlikely that Muḥammad ʿAbduh would agree that it is essential to have a background knowledge of places like Madyan and the dwellings of ʿĀd and Thamūd in order to fully understand the lessons contained in the Qurānic stories about these places;⁸⁸ on the contrary, he may well have considered such information to be a diversion from the true aims of the story.

It would be true to say that, while there has been no systematic undertaking of Amīn al-Khulī's proposals, some areas of study which he recommended have received more attention than others. His wife, ʿĀ'ishah ʿAbd al-Raḥmān, known as Bint al-Shāṭiʿ, undertook a tafsīr of fourteen short suras, entitled: "Al-Tafsīr al-Bayānī li'l-Qur'ān al-Karīm", concentrating on the literary and philological aspects of tafsīr. She chose suras "in which the topical unity is conspicuous",⁸⁹ perhaps in order to

⁸⁷ Ibid., 1:28-29.

⁸⁸ Amīn al-Khulī, op. cit., p. 311.

⁸⁹ ʿĀ'isha ʿAbd al-Raḥmān, Al-Tafsīr al-Bayānī li'l-Qur'ān al-Karīm, 2 vols., Cairo: Dār al-Maʿārif, 1966, 1969, 1:14.

avoid the problems Amīn al-Khūlī mentioned with regard to tafsīr musalsal. This strictly literary approach is not characteristic of Muhammad 'Abduh's school of tafsīr, however.

The importance of topical tafsīr has been widely recognised, and apart from the effect on tafsīr proper, this has resulted in a wealth of monographs on Quranic subjects,⁹⁰ which, although they do not call themselves "tafsīr"s, would appear to be the logical response to Amīn al-Khūlī's call for tafsīr maudū'ī as opposed to tafsīr musalsal. Works which call themselves "tafsīr" have perhaps inevitably remained more tied to the tartīb mashafī of the Qur'an, but in Shaltut we will see an example of a tafsīr which deals with the Qur'an sura by sura but which is sufficiently free in form to accommodate the requirements of tafsīr maudū'ī.

There has been much interest in the literary nature of the Qur'an as an entity, i.e. in the form of the mushaf. Amīn al-Khūlī briefly referred to this area of interest, with his usual tendency to place things in a strict order of priority: "if the mufassir wishes to reflect on the unity of the sura and the relationship between its verses, and its smooth progression, that would probably be only after a thorough tafsīr of the various topics contained in it".⁹¹

⁹⁰For example 'Abbās Mahmūd al-'Aqqād, Al-Mar'a fī al-Qur'ān, Muḥammad al-Madanī, Al Qur'ān yakhlug al-mujtama' al-mutafā'il, Muḥammad al-Bahī, Manhaj al-Qur'ān fī-Tatwīr al-Mujtama'.

⁹¹Amīn al-Khūlī, op. cit., p. 307.

This approach, which also deals with the relationship between the suras, presupposes that the order of the suras within the mushaf is divinely inspired - a belief that is now almost universal among Muslims but which has been disputed in the past.⁹² Such studies are often closely associated with the theme of icjāz, as in Muhammad 'Abd Allāh Dirāz's (1894-1958) "Al-Naba' al-°Azīm", which deals at length with establishing the divine origin of the Qur'an before going on to analyse its outstanding literary qualities, the structure of its suras, etc.⁹³

Dirāz lists four levels (marātib) on which the Quranic text may be studied: (1) section (qit°a) by section (a section would usually be a few verses which form a natural unit; it could equally be one long verse or a short sura); (2) sura by sura (3) the links between suras and (4) the Qur'an as a whole.⁹⁴ Of these four levels, Dirāz pays most attention to the sura, and in fact the book ends with a forty-eight page structural analysis of Sūrat al-Baqara. He compares the sura to a well-constructed building containing rooms and courtyards; since there are no incongruities or irregularities, there must have been an overall plan, despite the fact that the Qur'an was revealed apparently

⁹²See Jalāl al-Dīn al-Suyūtī, Al-Itqān fi °Ulūm al-Qur'ān, 3rd ed., 2 vols, Cairo: Maṭba°at Hijāzī, 1941, 1:107ff.

⁹³The author spent twelve years studying in France (see Al-Naba' al-°Azīm (nazara jadīda fī'l-Qur'ān), 4th ed., Kuwait: Dār al-Qalam, 1977, p. 7), which may explain his preoccupation with establishing the divine origin of the Qur'an; it also enabled him to become acquainted with the techniques of modern literary criticism.

⁹⁴Ibid., p. 107.

haphazardly, in irregular instalments which were not even placed chronologically in the Qur'an. Furthermore, the sura as a whole has a particular aim; just as the parts of the body all cooperate to perform a single function, so do the parts of the sura.⁹⁵

The idea of viewing the sura as an organic unity is not new; Dirāz quotes Abū Ishāq al-Shāṭibī (d. 790 A.H.): "No matter how many subjects the sura deals with, it is a single discourse; the end is linked to the beginning, and the beginning is linked to the end, and the whole is devoted to a single aim. Moreover the sentences appertaining to a particular subject are related to each other. If one wishes to understand the arrangement (nazm) of the sura, it is essential to look at the whole in some depth, and the same goes for the sections which deal with a particular subject."⁹⁶ Tafsīr al-Manār also pays some attention to the sura as an organic unity; from Sūrat al-Nisā' onwards, Rashīd Ridā follows each sura with a summary of its subject matter which is often quite detailed, and there is often a brief section preceding the sura entitled: "The way in which this sura is related to the previous one".⁹⁷ The way in which the verses are

⁹⁵ Ibid., p. 155.

⁹⁶ Ibid., p. 159; in the footnote to this page Dirāz gives the names of other scholars who have held to this concept: Abū Bakr al-Nīsābūrī, Fakhr al-Dīn al-Rāzī, Abū Bakr ibn 'Arabī, Burhān al-Dīn al-Baqā'ī, "and others".

⁹⁷ E.g. Tafsīr al-Manār, 7:287ff., (Sūrat al-An'ām).

linked to each other (tanāsug al-āyāt) is also referred to.⁹⁸ However, the idea of tanāsug al-āyāt wa'l-suwar is not so consistently applied as with later writers like Diraz and Shaltut.

Dirāz points out various unique characteristics of the Quranic style, such as its conciseness: there are no superfluous words in the Qur'an, and there is a unique balance between economy of expression (al qasd fi'l-lafz) and conveying the required sense as fully as possible (al-wafā' bi-haqq al-ma'nā).⁹⁹ Another of its unique qualities which he cites is that of being suited to all mentalities; its simplicity is such that it is meaningful to all, while it has depths of meaning to satisfy the more intellectually or meditatively inclined. Likewise it satisfies both the intellect and the emotions, sustaining a perfect balance between them.¹⁰⁰

Thus we see a broader approach to the Quranic style, as well as a new emphasis on the aesthetic aspect of tafsīr; Dirāz states that the Quranic harmony has an effect like that of music or poetry, but unlike them is always varied, and never repetitive in its rhythms, so that one never tires of listening to it.¹⁰¹ This

⁹⁸E.g. Ibid., 3:293-95, which discusses Qur'an 3:37 and shows how this passage represents a natural progression of what has gone before, with regard to its essential aim.

⁹⁹Dirāz, op. cit., pp. 109-112; here and elsewhere Dirāz illustrates his points with examples from the Qur'an.

¹⁰⁰Ibid., pp. 113-16.

¹⁰¹Ibid., p. 102.

beauty of form, however, is only the wrapping on the parcel; the meanings conveyed by these words are even more wonderful and harmonious.¹⁰² Thus the area of aesthetics encompasses not just the forms of expression in the Qur'an but also the substance of its message.

Dirāz points out the difficulty of describing the techniques of the Qur'an, which are often so subtle as to defy analysis, and which cannot always be classified according to the rules of balāgha; discussing the links between sections of a sura he writes:

However, if one forgets about those technical terms and superfluous questions, and gives free rein to one's mind and one's emotions, then recites or listens to those places, one would not be aware of any incongruity or any transition which offends the taste or jars upon the ears...¹⁰³

This aesthetic approach inevitably involves a greater degree of subjectivity, but "taste" or "aesthetic judgement" has never been denied as an aid to understanding the Qur'an simply because it cannot be objectively measured, and Diraz is not guilty of unwarranted or unrestrained subjectivity, since his arguments are backed up by concrete examples from the Qur'an. His structural analysis of Sūrat al-Baqara, for example, adheres closely to the text, and identifies the connecting links between the different

¹⁰² Ibid., p. 106.

¹⁰³ Ibid., p. 162, f.n.

sections.¹⁰⁴ Before embarking on this analysis he refers to various undisputed facts, e.g. that Sūrat al-Baqara is not only the longest sura but the most diverse as regards subject matter, as well as the sura which was revealed over the longest period of time (nine years) in the greatest number of instalments (over eighty). He points out that this makes it all the more amazing that there should be a consistent progression of ideas within the sura, which go to make up a harmonious whole.¹⁰⁵

While we may describe Dirāz's approach as a literary one, unlike Amīn al-Khūlī and ʿĀ'isha ʿAbd al-Rahmān he has constant reference to the moral lessons of the Qur'an. For example, he divides Sūrat al-Baqara into structural parts on the basis of its four main aims, which include the promotion of Islam and the promulgation of its laws, as well as "the promise and the threat" (al waʿd wa'l-waʿīd). This is perhaps inevitable when one considers that the Qur'an, unlike most literary works, is deliberately and consistently intended to act as a catalyst on peoples' souls; thus there can be no separation between its aims and its literary form. With Dirāz, we begin to see an effective synthesis between the literary approach and the practical approach which aims at guidance.

The "psychological" approach is an integral part of this type of tafsīr, which has reference to the effect of certain

¹⁰⁴See e.g. ibid., p. 180, the heading: "Halqat al-ittiṣāl bayna al-qismayn al-awwal wa'l-thānī", which is given as verse 74.

¹⁰⁵Ibid., pp. 157-58.

rhetorical features of the Qur'an, for only then does the full extent of its literary icjāz become apparent.¹⁰⁶ The aesthetic/psychological approach, which seeks to uncover new subtleties in the Qur'an, leaves room for a more instinctive, intuitive approach, and in this respect resembles some Sufi tafsīr, except that here the intuition operates in less controversial and more clearly-defined areas, and is firmly based on an understanding of the Quranic text in the light of the accepted principles of Arabic grammar, rhetorics, etc.

2) Shaltut's Tafsīr

As can be seen from the full title, "Tafsīr al-Qur'ān al-Karīm: al-Ajzā' al-ʿAsharat al-Ūlā" deals with the first third of the Qur'an. It was first published from 1949 onwards in the periodical "Risālat al-Islām" issued by "Jamāʿat al-Taqrīb bayna al-Madhāhib".¹⁰⁷ In 1959 it was first published in book form; its popularity can be judged by the fact that it was republished within a few weeks,¹⁰⁸ and by 1982 had reached its ninth edition. It is about 650 pages long, devoting between sixty and a hundred

¹⁰⁶E.g. ibid., p. 186: "...wa kāna hādha al-tardīd waḥdāhu kāfiyan li-ifhāmihim..."

¹⁰⁷Muḥammad al-Bahī, Tafsīr al-Qur'ān li'l-Ustādh al-Akbar al-Shaykh Maḥmūd Shaltūt, in Majallat al-Azhar, 31 (1959-60), p. 1017.

¹⁰⁸Muḥammad ʿAbd Allāh al-Sammān, Tafsīr al-Qur'ān al-Karīm li'l-Ustādh al-Akbar al-Shaykh Maḥmūd Shaltūt, in ibid., 32 (1960-61), p. 115.

pages to each of the first nine suras excepting the first two, which receive less attention.

Apart from his tafsīr he has written a fairly short book entitled "Ilā al-Qur'ān al-Karīm" which gives a resume of the general topics of selected suras, or parts of them, section (rub^c) by section, as well as three monographs on Quranic topics: "The formation of society according to the Qur'an", "The Qur'an and women", and "Islam and international relations in war and peace". All of these works are included in "Min Huda al-Qur'ān". The fact that extracts of these works are also included in his other works - "Min Tawjihāt al-Islām" and "‘Aqīda wa-Sharī‘a"¹⁰⁹ - demonstrates the essential homogeneity of much of his work, and illustrates the point that nowadays there is a thin dividing line between "tafsīr" and religious writings in general.

a) Shaltut's Views on Tafsīr

Shaltut greatly appreciated the services which Muḥammad ‘Abduh had rendered to the science of tafsīr, and made particular mention of the emphasis on practical matters, the way in which the Qur'an was taken as the primary source in all matters and not

¹⁰⁹E.g. passages on the Islamic view of wealth and begging contained in Min Huda al-Qur'ān, 2nd ed., Cairo: Dār al-Kātib al-‘Arabī li'l-ṭibā‘a wa'l-nashr, 1968, pp. 212ff and 226ff, are to be found in ‘Aqīda wa-Sharī‘a, pp. 250ff, and Min Tawjihāt al-Islām, 8th ed., Cairo and Beirut: Dār al-Shurūq, 1982, pp. 165ff respectively.

subordinated to anything else, the rejection of isrā'īliyyāt and unreliable reports, and the eradication of sectarianism.¹¹⁰

Shaltut expounds his ideas on tafsīr only briefly, in the Introduction to his tafsīr and in a short article entitled "The ideal method of tafsīr".¹¹¹ Like Muhammad 'Abduh and al-Marāghī, he was more of a practical man than a theoretician, being like them involved in social and religious reform in the Azhar and elsewhere.

In the Introduction to his tafsīr, he mentions the many different types of tafsīr - those that concentrate on grammar, balāgha, fiqh, etc. - not in order to criticise them, but, characteristically, in order to praise the great efforts which have been devoted to the Qur'an over the centuries.¹¹² He does, however, single out two things which should be totally avoided - sectarianism in tafsīr and "scientific" tafsīr (tafsīr 'ilmī). It is significant that his tafsīr was first published in Risālat al-Islām, which devoted itself to the eradication of sectarianism. Shaltut felt that these two types of tafsīr were unfitting to the dignity of the Qur'an. In the first case, the mufassir subordinates the Qur'an to his own beliefs instead of vice versa, and in order to do so has recourse to undesirable elements such as isrā'īliyyāt and weak or forged ahādīth; sectarianism has also

¹¹⁰ Shaltut, Al-Shaykh 'Abduh wa-Tarīqatuhu fi'l-Tafsīr, in Al-Risāla, 12, No. 576 (17th July 1944), p. 582.

¹¹¹ Min Huda al-Qur'an, pp. 322-25.

¹¹² Shaltut, Tafsīr al-Qur'an al-Karīm: Al-Ajzā' al-'Asharat al-Ūlā, 9th ed., Cairo: Dār al-Shurūq, 1982, pp. 7-8.

led to the prevalence of taqlīd in tafsīr.¹¹³ Secondly, he criticises those who interpret the Qur'an according to scientific theories and who, "if they pass by a verse which mentions the rain, or describes the clouds, or talks about thunder or lightening, rejoice and say: See! The Qur'an is addressing the scientists".¹¹⁴ Shaltut observes that such people may think they are serving the Qur'an, but on the contrary, they expose the Qur'an to the charge of instability (dawrān), since scientific theories change with the times. Moreover the Qur'an was not revealed as a handbook on scientific theory - its references to natural phenomena are only in order to provoke thought and reflection and research, and to increase people's faith. One should be content that it does not contain anything which contradicts established scientific truths.¹¹⁵ Thus he is more cautious with regard to tafsīr ʿilmī than Muḥammad ʿAbduh and Rashīd Riḍā, who, as we have observed, occasionally referred to scientific theories in their tafsīr, although they did not approve of tafsīr ʿilmī as such.

In his article "The ideal method of tafsīr", Shaltut puts the case for tafsīr maudūʿī. He believes that the traditional form of tafsīr, (musalsal), has contributed to the areas of conflict within tafsīr and has made it easy for those with a particular bias to interpret the verses in their own way; consequently the

¹¹³ Ibid, pp. 9-10.

¹¹⁴ Ibid., p. 11.

¹¹⁵ Ibid., pp. 13-14.

guidance contained in the Qur'an has been somewhat difficult to obtain. In fact this has resulted in an "intellectual chaos" which has turned people away from the Qur'an and tafsīr.¹¹⁶ By gathering together all the verses on a particular subject and comparing them, on the other hand, the mufassir will be able to see their true aim and significance, without forcing any meanings onto the verses. Shaltut feels that this type of tafsīr shows people how the Qur'an is connected to all spheres of their daily lives, and gives them the practical guidance that they need, and this will combat the attitude of some Muslims who see the Qur'an as "just a spiritual book", to be used only for recitation and meditation, or as a kind of charm to ward off the devil or to cure ills.¹¹⁷

b) The Form of Shaltut's Tafsīr

Accordingly, Shaltut's tafsīr deals with the Qur'an sura by sura but not verse by verse. The sura is generally introduced by a passage giving the reason for its name and other general details such as its mugatta'āt (the letter-symbols which preface some suras of the Qur'an), whether it is Meccan or Medinan, its order in the muṣḥaf, etc. Usually there is a passage describing the general circumstances of the Muslim community at the time of

¹¹⁶ Min Huda al-Qur'an, pp. 322-23.

¹¹⁷ Ibid., p. 324.

its revelation.¹¹⁸ The most consistent feature of all, however, is the sections which are common to all the chapters (except that on al-Fātiḥa, due to its brevity), outlining their main aims or subject matters. One may paraphrase Shaltut's outline of Sūrat al-Baqara thus:¹¹⁹ Sūrat al-Baqara is one of the most comprehensive suras, containing in its early part the essential articles of faith and many proofs of tawḥīd, and mentioning the creation of man; the sura can then be divided into two parts which reflect its two main aims. The first aim arose as a result of the fact that the Muslims now lived alongside the Jews in Medina; this aim comprised the appeal to and discussion with the Jews (vv.40-177), reminding them of their past misdeeds and God's favours to them, and refuting their doubts about Muḥammad's prophethood. The second aim arose as a result of the fact that the Muslims had now come to form an independent community with their own identity, and were thus in need of new legislation to regulate their affairs, and here Shaltut mentions the many and varied subjects which are dealt with in the second half of the sura (vv. 178ff.), and goes on to say:

...and all that is interspersed - as is usual in the Qur'an - with stories, promises and threats which encourage the believers to adhere to these precepts and not to violate them, drawing attention to God's laws in creation and in communities; it (the sura) then ends with an affirmation of the creed of the believers, just as

¹¹⁸E.g. Tafsir, pp. 275-77 and 516. There is also frequent reference to such background information in the text, e.g. pp. 373 and 589ff.

¹¹⁹Ibid., pp. 50ff.

it began with an affirmation of the characteristics of the believers...

Thus the end endorses the beginning, and the beginning anticipates the end, and the sura forms a single entity.¹²⁰

c) The Sura as an Organic Unity

Here and elsewhere it is evident that Shaltut regards the sura as a perfectly balanced whole, and, like Dirāz, he feels it is important to get an overall view of the sura before embarking on its individual topics. While he does not give a systematic structural analysis of each sura, he does take it for granted that the sura has a coherent and well-ordered structure, and he sometimes refers to this. For example, after describing at length the various individual topics contained in each of the two aforementioned parts of Sūrat al-Baqara, he says:

These are the beads of the two sides of the necklace, upon which are threaded the topics of Sūrat al-Baqara, and of which āyat al-birr (v.177) is the centre-piece...

We have used this method, which is unusual in tafsīr, in order to place the topics with which the sura deals before this verse, as well as those which come after it, in front of the reader on a single thread which links the beads of each side, and gives the onlooker an overall view of all that that noble sura contains, and helps him to identify the aims and the nature of each topic, and the way in which it is connected to the other topics.¹²¹

Shaltut is aware of the importance of the nidā'āt (those places where God directly addresses people in the Qur'an,

¹²⁰ Ibid., p. 52.

¹²¹ Ibid., pp. 78-79.

beginning with "yā ayyuhā...") to the structure of many of the suras, and often pays special attention to them. In his chapter on Sūrat al-Mā'ida, with the exception of a discussion of the disciples and the table which they asked to be sent down, the whole chapter is structured on the basis of the nidā'āt, reflecting the fact that these define the sequence of subject matters within the sura.¹²²

He also refers to the way in which verses relate to one another within a sura. For instance, he points out that the long section in Sūrat al-A'rāf which relates the stories of past nations who disbelieved in their prophets (vv.59-177), begins and ends with a verse which compares the disbelievers to natural phenomena (vv. 58 and 176 respectively) - in the first instance to bad soil which yields only poor and scanty vegetation, and in the second to a dog who does nothing but pant whether you chase it or leave it alone. Thus the end and the beginning of the passage are related to each other.¹²³

Elsewhere he refers to the natural progression within the sura, when discussing the two styles which predominate in Sūrat al-An'ām: the style of taqrīr (affirmation or statement), and that of talqīn (instruction - i.e. those passages which begin with "Say:..."). He believes that the way in which the ten commandments are introduced towards the end of the sura in the

¹²² Ibid., pp. 278-348.

¹²³ Ibid., p. 501, under the heading: "Khitām hādha al-siyāq muttasiq ma'a al-bad'".

talqīnī style, following the forceful arguments and polemics of the sura, make them a natural conclusion to those arguments.¹²⁴

d) The Relationship between the Suras

Shaltut not only likes to give the reader an overall view of the sura, but he also wishes the reader to bear in mind the general contents of each of the suras in succession, and to this end he periodically reminds us of the subject matters of previous suras. Before commenting on Sūrat al-An'ām, for example, he reviews the main aims and characteristics of all the previous suras.¹²⁵ He points out that the four long Medinan suras preceding this sura, although they differ in their details, all have the same common aim, i.e. to regulate the legal affairs of the Muslims as an independent community, and to provide guidance on how they should deal with their new neighbours - mainly the Jews - both on the level of verbal polemics and practicalities, in peace and in war.¹²⁶ Having stated what they have in common, he then highlights the differences between them by giving a fairly detailed resume of each sura. He points out the uniqueness of Sūrat al-Fātiha in its relationship to all the other suras of the Qur'an, inasmuch as it alludes, despite its brevity, to all the main aims of the Qur'an, referring as it does to faith and

¹²⁴ Ibid., pp. 395-96, under the heading: "Majī'atuhu bi-uslūb al-sūrat al-talqīnī ka-natā'ij ba'da al-mutaqaddimāt".

¹²⁵ Ibid., pp. 350-60. He does this again more briefly on pp. 584-85 and 514-15.

¹²⁶ Ibid., p. 352.

works, to this world and the next, to "the promise and the threat".¹²⁷

Having thus given us a picture of the way in which these four suras agree in their aims and complement each other in their details, Shaltut goes on to show how Sūrat al-An'ām, being Meccan, differs from them in several respects; for example, it does not contain legislative material, or reference to ahl al-kitāb (the People of the Book), hypocrites or war, nor are there any nidā'āt addressed to the believers as a group.¹²⁸ He then summarises the contents of this sura, showing in greater detail how it differs from the previous suras:

We find that this sura concentrates on the first elements of the da'wa (Islamic mission), and its weapons in this are repeated arguments, clearly expounded verses, and an amazing variety of methods of persuasion and compelling proofs; it mentions God's unity in creation, in worship and in legislation, as well as the attitude of the disbelievers, and it tells them what befell their forefathers of like mind, and relates their objections to the prophethood; it mentions the Day of Resurrection and Retribution, and with regard to all these things refers us to the evidence in our souls and in the world ("fī al-anfus wa-fī al-āfāq")...¹²⁹

Following this summary, Shaltut goes on to compare this sura with the four other "suwar al-ḥamd" (those suras which begin with "al-ḥamdu li'llāh"): al-Fātiḥa, al-Kahf, Saba', and Fātir (al-Malā'ika), showing how they all concentrate on aspects of God's

¹²⁷Ibid., pp. 350-52.

¹²⁸Ibid., p. 361.

¹²⁹Ibid., pp. 361-62.

Lordship (rubūbiyya), whether it be in relation to creation or with regard to His guidance.¹³⁰ Shaltut feels that, far from being an isolated phrase at the beginning of the sura, the opening of a sura with "Praise be to God..." influences its nature and content in a particular way, and that the five suras which begin in this fashion have a special relationship with each other by virtue of it. He shows convincingly that the opening phrases of these suras give a clear indication of which aspect or aspects of the rubūbiyya will be prominent in the sura. For example, Sūrat al-Anʿām, which concentrates on the wonders of creation and natural phenomena begins: "Praise be to God Who created the heavens and the earth and made the darkness and the light...", while Sūrat al-Kahf, which concentrates on the risala and waḥy (prophethood and revelation), begins: "Praise be to God Who revealed to His servant the Book, and did not make any crookedness in it...". Sūrat Fāṭir, which deals with both of these aspects, begins: "Praise be to God, Creator of the heavens and the earth, Who made the angels messengers...", and Sūrat al-Fāṭiḥa, which begins with: "Praise be to God, Lord of all worlds...", contains in essence all the aspects of the rubūbiyya which are contained in the other four suras.¹³¹

Following this he embarks on a comparison between Suras al-Anʿām and al-Aʿrāf, which stand together as two long Meccan suras

¹³⁰ Ibid., pp. 363-68.

¹³¹ See also ibid., pp. 23-25. Cf. pp. 167-68, where he compares Sūrat al-Nisā' and Sūrat al-Ḥajj, which both begin with the phrase: "Yā ayyuhā al-nās ittaqū rabbakum".

in a succession of Medinan suras, but which differ in several respects.¹³² He lists nine ways in which they differ, indicating for example those aspects which are dealt with in detail in one sura but only briefly or generally in the other, such as the stories of past prophets, and the customs of men with regard to tahllīl and tahṛīm (declaring things to be lawful or unlawful). He also brings out the difference in the overall emphasis of each sura: while Sūrat al-Anʿām concentrates on the objections to the daʿwa, and relates the proofs which establish its validity, Sūrat al-Aʿrāf concentrates on the threat of the punishment in the Hereafter, as well as the punishment in this world of former nations who disbelieved in their prophets.¹³³ He also shows how each was more suited to the time when it was revealed, al-Aʿrāf being revealed in the first stages of the daʿwa before the opposition had had time to formulate arguments against it, while al-Anʿām, revealed later, responds to the growing opposition and replies to their objections.

Again, when dealing with Sūrat al-Tawba, Shaltut shows its relationship to Sūrat al-Anfāl and the reason why they are linked together with no basmallah in between:

...together with Sūrat al-Anfāl, it gives us a general historical picture of Muhammad's (p.b.u.h.) mission and jihād up until the time when God blessed him with the fruits of that jihād and the completion of that mission...

Perhaps it is because these two suras describe those stages that they come together in the

¹³²Ibid., pp. 369-74.

¹³³Ibid., p. 373.

mushaf.¹³⁴

An overview of the suras is in any case a corollary of the topical approach to tafsīr; for example, when dealing with Sūrat al-Nisā', he lists all the other suras which deal with women's issues, mentioning the aspects upon which they concentrate.¹³⁵

e) Shaltut's Method of Tafsīr

Having given an overall picture of the sura, Shaltut feels free to dwell on particular topics dealt with in the sura, while perhaps neglecting others. For instance, his chapter on Sūrat al-Baqara deals with the following subjects: the story of the cow and Quranic stories in general, the muqatta'āt and the mutashābih (that which is open to conjecture or admits of more than one meaning) in the Qur'an in general, the three types of people vis-a-vis the Quranic guidance (muttaqūn, kāfirūn, munāfiqūn), and the position of "āyat al-birr" within the sura and the theme of birr (piety, righteousness) in general. While he does not discuss the many legal matters contained in this sura, elsewhere he dwells at length on the legislation, both internal and external, which helped to consolidate the Medinan community.¹³⁶ We should add that his selectiveness is more apparent here than in any other chapter, since despite the fact that Sūrat al-Baqara is the longest sura of the Qur'an, Shaltut's chapter on it is only

¹³⁴ Ibid., pp. 588-89.

¹³⁵ Ibid., pp. 162-65.

¹³⁶ See, e.g., ibid, index to Sūrat al-Nisā'.

forty-eight pages long, while most of the other longer suras receive nearly a hundred pages.

Apart from this selectiveness, the list of topics he deals with in his chapter on Sūrat al-Baqara show clearly his tendency to go from the particular to the general; just as he likes to have an overall view of the sura, so he likes to deal comprehensively with particular themes which occur in the sura. This gives us an interesting combination of tafsīr proper, tying itself to the text of a particular sura, and writings on general aspects or topics of the Qur'an, these being, in Sūrat al-Baqara, the Quranic stories, the muḡattaʿāt and the mutashābih in the Qur'an, and the theme of birr.

As we have said, the chapter on Sūrat al-Baqara is not typical in that it is unusually short; in other chapters we find a much greater variety of social and legal subject matters. In Sūrat al-Nisā', for example, he talks about the various aspects of internal and external stability with which the sura deals, such as the family, marriage, man's authority over woman, polygamy, orphans, financial legislation, inheritance, adoption, the sources of law, judges and their responsibilities, war and various matters appertaining to it as well as many other things which are dealt with more briefly such as al-qadā' wa'l-qadar (destiny and free will), kindness towards parents, the nidā'āt contained in the sura and so on.

Notwithstanding the great variety of topics, which cover most of the contents of Sūrat al-Nisā', Shaltut has still been

selective in deciding which aspects to concentrate on. We also see the same tendency here and in other suras to go from particular subjects to general ones. In this sura, for example, in view of the title and main subject matter of the sura he discusses the Qur'an's concern with women in general.¹³⁷ In Sūrat Āl 'Imrān, when dealing with the nidā'āt contained in the sura, he talks about the general significance of the call from God.¹³⁸ Again, in Sūrat al-Mā'ida, on the subject of tayammum, he discusses the phenomenon of tashrī' al-badal (legislation which allows certain acts of worship to be replaced with a substitute in certain circumstances) in general;¹³⁹ and when discussing Qur'an 5:7, "And remember God's favour to you and the Covenant He made with you when you said: "We hear and obey"...", he goes on to talk about the different types of covenant (mīthāq) which are referred to in the Qur'an, such as the covenants God made with the prophets, with mankind in general, and with Banū Isrā'īl.¹⁴⁰

Equally in evidence is the desire to derive general principles from particular Quranic verses, and this is where Shaltut's training as a faqīh becomes apparent. For example, having discussed the verses on inheritance in Sūrat al-Nisā', he goes on to deduce the general principles of inheritance which can be inferred from them, such as the fact that inheritance can be

¹³⁷Ibid., pp. 165-67.

¹³⁸Ibid., p. 113.

¹³⁹Ibid., p. 320.

¹⁴⁰Ibid., pp. 332ff.

through blood relationship or marriage relationship, and that age or sex have no influence on whether or not a person qualifies as an heir, etc.,¹⁴¹ This characteristic also applies to the Shari'a as a whole, as where he discusses the different opinions as to the correct procedure in the various parts of wuḍū', and goes on to maintain that this difference of opinion demonstrates the tolerance and flexibility of the Shari'a.¹⁴²

i) The Qur'an as first source of tafsīr

The major characteristic of tafsīr maudūcī, as has already been mentioned, is that of bringing together different parts of the Qur'an in order to see every aspect of a topic and fully understand the significance of each phrase. Accordingly, when Shaltut is dealing with a particular topic in a particular sura, he does not confine himself to that sura but refers to other parts of the Qur'an; for example, when he is discussing the financial legislation contained in Sūrat al-Nisā', we find the heading: "The Qur'an's concern with the subject of wealth in this sura and others".¹⁴³ When in the chapter on Sūrat al-Anfāl he wishes to define the legitimate causes or reasons for war, he refers to Quranic verses in other suras which throw light on the subject,¹⁴⁴ and when discussing the concept of justice in the

¹⁴¹ Ibid., pp. 195-97.

¹⁴² Ibid., pp. 311-12.

¹⁴³ Ibid., pp. 197-99.

¹⁴⁴ Ibid., pp. 529-30.

chapter on Sūrat al-An'ām, he refers to the many different instances in which the Qur'an enjoins justice.¹⁴⁵ Apart from such examples, he naturally feels free to quote from any part of the Qur'an whenever it is relevant to his discussion.

This method is also used for particular features of the Qur'an, as where he deals with the questions people address to Muhammad, in the Quranic phrases beginning: "yas'alūnaka" or "yastaftūnaka", taking examples from the whole Qur'an. This enables him to make some general observations on these questions, such as the fact that they usually concern practical matters, the difference between "su'āl" and "istiftā'", and the reasons for particular nuances of expression contained in some of them.¹⁴⁶ Often it is simply a case of bringing out particular features which occur frequently in the Qur'an in order to show their importance, as for example the fact that zakāh and ṣalāh are often mentioned together, or the way in which the Qur'an generally mentions the attributes of the believers following a word like mu'minūn or muttaqūn.¹⁴⁷

This is also important on the linguistic level. Although the actual grammatical content in Shaltut's tafsīr is small, he is

¹⁴⁵ Ibid., pp. 438-41.

¹⁴⁶ Ibid., pp. 537ff.

¹⁴⁷ Ibid., pp. 573-74 and 567ff. respectively.

often influenced by the general Quranic usage of words when defining their meaning.¹⁴⁸

Apart from fulfilling the aforementioned aims of clarifying meanings and making the Quranic lessons more relevant to people's lives, this constant cross-reference within the Qur'an reflects a reluctance to measure the Qur'an by any criterion except itself. When Shaltut is discussing Qur'an 4:115, "He that opposes the Prophet after guidance has been made clear to him, and follows a path other than that of the believers, shall be given what he has chosen. We will cast him into Hell, a miserable abode", he maintains that this verse shows that those who either have not heard about Islam or have not had it presented to them in a favourable light, cannot be called kāfirūn, nor can anyone be sure that they will go to Hell. He goes on to describe the objections which some scholars would have to his interpretation, namely that it relies on the connotations (dalālat al-mafhūm) of the verse rather than on an explicit statement, and he refutes their view, saying: "in our opinion this amounts to understanding God's word in the light of technical rules (gawā'id iṣṭilāhiyya), whereas God's word is independent of any rules".¹⁴⁹

For Shaltut the Qur'anic text is in fact often the first source of tafsīr. Having remarked on the fact that there is a difference of opinion as to whether the "Imrān" in the title of

¹⁴⁸See ibid., pp. 26, 79ff., 420, 465ff., 549, and 643 for examples of this.

¹⁴⁹Ibid., p. 229.

the third sura is the father of Moses and Aaron or the father of Mary, he goes on to give his own opinion, basing it not on any previous authorities or reports, but on the evidence contained in the Qur'an itself; he points out that in the Qur'an, the names of the suras generally refer either to the most important subject matter of the sura, as with Sūrat al-Nisā', or to the strangest event contained in the sura, as with Sūrat al-Mā'ida or Sūrat al-Baqara. In Sūrat Āl 'Imrān, there are no strange or wonderful stories appertaining to Moses or Aaron, but there is one about Jesus and Mary, therefore Shaltut believes the 'Imrān in question to be Mary's father.¹⁵⁰

Another important way in which the Qur'an itself is a main source of tafsīr is where there is reference to the context (siyāq) of a verse or phrase. Whereas traditional tafsīrs will often look at a verse, or even the words within a verse, in isolation,¹⁵¹ in modern times there has been a reaction against this fragmentary approach to the Qur'an, and mufasssirūn now tend to take a broader view, characterised as we have said by a new emphasis on the sura as an entity and tafsīr maudū'ī. The use of siyāq is another aspect of this broader view, and Shaltut has frequent reference to it.

For example, after quoting the opinion of Muḥammad 'Abduh and

¹⁵⁰Ibid., pp. 90-91.

¹⁵¹This would not apply to all traditional mufasssirūn; al-Zamakhsharī, for example, was interested in the relationship between the words and phrases of the Qur'an.

Rashīd Riḍā regarding the story of the cow (Qur'an 2:72-73),¹⁵² he refutes their interpretation on the grounds that it is not appropriate either linguistically or with regard to its context.¹⁵³ They interpret the story as one that illustrates a piece of Jewish legislation, which Rashīd Riḍā quotes from the Torah - i.e. the procedure to be followed in the event of a murder being committed where the perpetrator is unknown. Because this procedure avoids bloody disputes as to the identity of the murderer, and thus has the effect of saving lives, they interpret the word "yuhyī" in the phrase: "kadhālika Allāh yuhyī al-maytā" ("Thus does God bring the dead to life" - 2:73), in the sense of preserving life, as in the phrase: "In qisās (talion) there is life for you" (2:179). Likewise the phrase which follows: "and He shows you His signs so that you may understand", would refer to the wisdom of this legislation rather than to any actual visible phenomenon. Thus they are trying to avoid the interpretation that the corpse actually came to life and uttered the name of his killer; Shaltut attributes this reluctance partly to the fact that the story is not contained in any of the Jewish sources; however the tendency of Muḥammad ʿAbduh and Rashīd Riḍā to minimise the importance of supernatural phenomena within Islam is well known.¹⁵⁴

¹⁵² Ibid., pp. 41-44.

¹⁵³ Ibid., pp. 44-45.

¹⁵⁴ See, e.g., al-Dhahabī, op. cit., 2:543-47, and ʿAbd al-Ghaffār ʿAbd al-Raḥīm, op. cit., pp. 255ff.

Shaltut objects to their interpretation on the grounds that it involves "turning words away from their lexical meanings to another meaning, without any good reason for such an interpretation", and this may be simply because the mufassir finds the more obvious or literal meaning somewhat unlikely,¹⁵⁵ and also because of the context, as the phrase that follows: "Yet after that your hearts became as hard as rocks or even harder", suggests that there was a definite physical event to which they reacted.

When discussing the opening phrase of Sūrat al-Anfāl:¹⁵⁶ "They ask you about the spoils of war", Shaltut remarks that the question could concern either whether or not the spoils are lawful, or how the spoils should be divided up. He remarks that of the two types of question in the Qur'an - those whose exact significance is clear from their wording, (e.g. 2:217), and those whose exact significance becomes clear from what follows, (e.g. 2:219,220) - this is of the second type. The reply: "The spoils of war belong to Allah and the Apostle" does not indicate that the question concerns the lawfulness or otherwise of the spoils, but neither does it specify the exact significance of the question. The phrase which follows, however ("so have fear of (ittaqu) God and end your disputes, and obey God and His messenger, if you are true believers"), suggests that the Companions had been arguing in a way which does not conform with

¹⁵⁵ Ibid., p. 45.

¹⁵⁶ Ibid., pp. 555ff.

tagwa, and this would not apply to the question of whether or not spoils are licit, which would in fact be a valid question. The view that the question refers to the division of the spoils, as well as being supported by ahādīth which relate disputes as to who should be given priority in the division of booty, is backed up by what comes later in the sura, i.e. that one fifth of the spoils is for Allah and His messenger and for various categories of people in need (v. 41).¹⁵⁷

ii) Balāgha

Balāgha is of course an essential part of the literary approach to the Qur'an, and in Shaltut's tafsīr we see it on various levels. Firstly, there is the rhetorical analysis of particles or words, or the reasons behind particular forms of expression in the Qur'an, such as can be found in the work of al-Zamakhshari and al-Razi. For example, Shaltut comments on the use of the preposition "bi" rather than "ilā" with the verb "aḥsana" in the phrase: "wa bi'l-wālidayni iḥsānan",¹⁵⁸ and gives reasons why the answer to the question about the mountains (Qur'an 20:105), unlike any of the other answers given to questions addressed to Muhammad, is introduced by the particle "fa", although it is not a conditional.¹⁵⁹ He gives the reason for the

¹⁵⁷For other examples of the use of context see, eg., ibid., pp. 265 and 507.

¹⁵⁸Ibid., pp. 405-6.

¹⁵⁹Ibid., p. 545.

phrase in Sūrat al-An'ām: "nahnu narzuqukum wa-iyyāhum" (6:151) being reversed in Sūrat al-Isrā' ("nahnu narzuquhum wa-iyyākum" - 17:31),¹⁶⁰ and the reason for the omission of the word "qul" in reply to the question about God ("wa-idha sa'alaka 'ibādi 'annī fa-innī qarīb" - 2:186), quoting in this last instance from al-Rāzī.¹⁶¹

However, this type of linguistic comment is relatively rare with Shaltut, since he does not aim to give a detailed analysis of the Qur'anic text. Having become acquainted with Shaltut's approach to the Qur'an, it should not surprise us that in the field of balāgha the emphasis is on general features or characteristics of the Qur'an. There are many examples of this in his work, both within and outside his tafsīr, as can be seen from headings like: "Styles of the Qur'an in enjoining piety", "The ways in which the Qur'an demonstrates the case for the Resurrection", or "Styles of the Qur'an in calling people to profitable thought".¹⁶²

The close relationship between balāgha and psychological tafsīr was observed by Amīn al-Khūlī, as we noted earlier, and is illustrated in Shaltut's tafsīr when he talks about the effect of certain rhetorical features in the Qur'an, such as the way in

¹⁶⁰ Ibid., pp. 412-13.

¹⁶¹ Ibid., pp. 543-44.

¹⁶² See ibid., pp. 562-63 and 382-84, and Min Tawjihāt al-Islām, pp. 135ff. respectively. For other examples see Tafsīr, pp. 344ff., 455ff., Ilā al-Qur'ān al-Karīm, Cairo and Beirut: Dar al-Shuruq, n.d., pp. 129-30, and Al-Islām, 'Aqida wa-Shari'a, pp. 261ff.

which the Qur'an sometimes has an abrupt change of subject and "takes one by surprise when it is talking about particular subjects, in such a way as to revivify the heart so that it is in continual contact with God, from whom it draws strength and help".¹⁶³ Elsewhere he gives reasons for the wording of the phrase: "Faddala Allāh ba'dahum 'alā ba'd" (4:34) rather than a phrase such as "bi-mā faddalahum 'alayhinna", where the Qur'an is describing men's authority over women,¹⁶⁴ and the reason for the use of the verb "qaraba" in the phrase: "wa-lā taqribū al-fawāḥiṣh" (6:151).¹⁶⁵

In addition to this he deals with such things as the effect of the two styles (tagrīrī and talqīnī) which dominate Sūrat al-An'ām,¹⁶⁶ the effect of the comparison of the fates of the believers and the unbelievers in Sūrat al-A'rāf,¹⁶⁷ the effect of the muqatta'āt at the beginnings of suras,¹⁶⁸ and the effect of opening a sura with mention of good things ("barā'at matla'"), such as the Prophet or the believers.¹⁶⁹

¹⁶³Ila al-Qur'an al-Karīm, pp. 91-92, where he gives examples of this in the Qur'an.

¹⁶⁴Min Huda al-Qur'an, p. 313.

¹⁶⁵Tafsir, pp. 430-33.

¹⁶⁶Ibid., p. 391.

¹⁶⁷Ibid., pp. 481-82.

¹⁶⁸Ibid., pp. 61ff.

¹⁶⁹Ibid., pp. 536 and 166. For other examples of "psychological" tafsīr see, e.g., headings: "Sirr tawjīh al-inkār ilā al jamā'a wa fīhā al-mukhlisūn al-musari'un", and "Tawjīh al-da'wa bi'sm al-rubūbiyya min bawā'ith qubūliha", in ibid., pp.

Shaltut's rhetorical analysis is generally clearly thought out, and backed up by examples from the Qur'an where appropriate, but occasionally he seems to get carried away by his train of thought and is a little less careful than usual in the examples he cites. In the aforementioned instance where he is explaining the reason for the use of the verb "qaraba" in the phrase "lā taqribū al-fawāhish", i.e. that it is used with things which can be hard to resist, so that one should not even go near them for fear of being tempted, one or two of the parallel occurrences of the verb in the Qur'an which he gives are not appropriate. For example, the phrases: "fa-lā yaqribu al-masjid al-ḥarām ba'da 'aḥihim hādha" (9:28), and "la taqribū al-salāt wa-antum sakāra" (4:43), would appear to be using the verb rather in the emphatic sense or to convey indignation, and in the phrase: "wa-lā taqribūhunna ḥatta yathurna" (2:222) the verb is used in a technical sense to denote sexual relations.¹⁷⁰

We have seen that in the sphere of balāgha the Qur'an is still the main source of tafsīr; the aim is not to categorise the Quranic phrases under various rhetorical headings or to evaluate the Qur'an in the light of the principles of balāgha, but rather to highlight the mastery of the Quranic expression, and hence its isjāz.

iii) Social issues

637-38 and 397-99 respectively.

¹⁷⁰ Ibid., p. 431.

The single most striking characteristic of Shaltut's tafsīr is the emphasis on practical matters. As with Muḥammad ʿAbduh, the paramount aim is to guide people; accordingly, social and legal issues form a significant part of his tafsīr.

Since most of Shaltut's writings about society are contained in his other works, we will deal with this at greater length in a separate chapter on Islamic society. Here we will show the importance he attaches to social issues within his tafsīr.

One of Shaltut's major preoccupations is the desire for unity among Muslims; he frequently refers to the lamentable state of the Muslims today, and warns against the evils of schism and disunity.¹⁷¹ He conveys a sense of urgency when he addresses the Muslims directly:

How important it is for us - Oh Muslims- especially in this age when the bonds of Islamic unity have been loosened, and the Muslims are being undermined both internally and in their external relations - how important it is that we should listen to these calls from God, and reflect upon them and understand them properly...and make them our guiding light in life, so that we will again be a strong community (umma) with upright morals, and occupy the place which God intended for us...¹⁷²

In some places he abruptly reminds the reader that he expects an active response, by direct reference to either present-day Egypt or those in authority.¹⁷³

¹⁷¹E.g. ibid., pp. 155-56, 302-3, 133, 122-23, 242-43 and 446.

¹⁷²Ibid., pp. 122-23.

¹⁷³E.g. ibid., pp. 149, 167-8 and 189.

Under the heading: "God's laws with regard to the rise and fall of nations", he writes:

There are various ways in which societies or groups are exposed to imperfection and weakness: by way of their spiritual weakness, so that they become vulnerable to any provocation or disturbance, or to any false rumours which are broadcast, or by way of the decadence of their individuals, and the absence of a single goal to which all are devoted, or by way of acquiescence in the misdeeds, indecencies and sins which are perpetrated within them, which spread like a disease and pervade the whole community...or by way of their being deceived by the outward appearance of their opponents, believing them to be honest and sincere...or by way of the harshness which fills the hearts of its rich members, so that they are no longer aware of the plight of the poor...so that the poor man...resents the rich man...and in addition to all this, they are exposed to weakness by way of the jaza' and hala'¹⁷⁴ with which they encounter difficulties, so that they lose the strength to resist and protect themselves, and are prostrated by events, misfortunes and enemies.¹⁷⁵

This passage illustrates the author's view of the organic nature of the Muslim community, and the reciprocal responsibility between all of its members, which is epitomised in the Quranic phrases: "al-amr bi'l-ma'ruf wa'l-nahy 'an al-munkar" and "al-tawāsī bi'l-ḥaqq wa'l-tawāsī bi'l-ṣabr". Shaltut maintains that the first Muslims were most conscientious in this respect, but

¹⁷⁴These are Quranic words signifying the opposite of sabr, i.e. restlessness, apprehension, anxiety, fickleness, etc.

¹⁷⁵Tafsir, p. 123.

after this the seeds of desire and selfishness grew and men competed with each other instead of helping each other.¹⁷⁶

Sometimes when Shaltut is painting a picture of the ideal society he gets carried away and displays more eloquence than factual information, and such passages may be introduced by such vague phrases as: "Experience has shown us..." ("wa-qad dallat al-tajārib"):

Experience has show us that the society in which there is mutual help and compassion between people, and in which each individual feels the pains of others, and where the worship of money, putting it before all noble human values, is dead - experience has shown us that such a society is a happy and contented society, where the rich and the poor regard each other with mutual affection and live in close cooperation...¹⁷⁷

No doubt Shaltut would cite the early Muslim community as an example of such a society, but looking at recent history and at the world today it is difficult to see a society which would fit this description. We may take it that the more these characteristics apply to a society, the happier it will be - but in any case he is stating the obvious. However, we should remember that Shaltut is not a sociologist but a religious scholar and a preacher, and such a speech is intended to awaken in people the desire to improve their society; he would be the first to encourage sociologists to use their specialised

¹⁷⁶ Ibid., pp. 135-36; see also headings: "Takāful al-umma wa-mas'ūliyya ba'ḍiha 'an ba'ḍ" and "Ishārat al-Sūra ilā fikrat al-ḍamān al-ijtimā'ī", in ibid., pp. 182-83 and 202 respectively; the theme of social solidarity is explored in greater depth in Chapter Four.

¹⁷⁷ Ibid., p. 144.

knowledge to serve Islam, believing as he does that each should have authority in his own sphere.¹⁷⁸

Shaltut sometimes gives a utilitarian reason for certain types of moral behaviour, and this is when he is considering the implications of such behaviour for society as whole. For example, when discussing the Quranic injunction to treat parents well:

...we may realise that this great concern with parents is not just for their own sake and for the upbringing they gave their children, but because they are the pillars of the family, and in order for society to be strong and healthy, the family must be strong and healthy, its members enjoying an atmosphere of happiness and dignity, so that this spreads to other relatives and friends and neighbours and to other areas of society, and virtue extends to the whole nation (umma), for the nation is nothing but a collection of families, and is affected by that which befalls the families, whether it be evil or good.¹⁷⁹

Similarly his main objection to "al-tanājī bi'l-ithm wa'l-cadwān" (talking in secret with evil intent), is its detrimental effect upon society as a whole, and he cites the example of the way in which political parties slander and malign each other in underhand ways, and spread false rumours about each other, etc.;¹⁸⁰ again, orphans should be carefully brought up so that they should not grow up to be a menace to society.¹⁸¹

While these passages illustrate Shaltut's concern with society as a whole, he is not suggesting that these are the only reasons

¹⁷⁸See Min Tawjihāt al-Islām, p. 563.

¹⁷⁹Tafsir, p. 205.

¹⁸⁰Ibid., pp. 219-20.

¹⁸¹Ibid., p. 184.

for such conduct; he simply considers the advantages to society to be an important factor. He often refers to compassion, mercy, etc., and would certainly not deny, for example, that gratitude to one's parents is a reason for treating them well in their old age, especially as the Qur'an itself refers to this (17:24).

Shaltut often discusses individual social questions which occur in a particular sura. He deals with Sūrat al-Nisā', which contains more such material than the other suras, on the basis of its two main aims: the establishment of internal stability, by the regulation of the Muslims' social and legal affairs, and of external stability, by the regulation of the Muslim community's relations with other communities, whether they be ahl al-kitāb or mushrikūn (polytheists). We will deal more fully with the way in which he treats these social questions in the chapter on social issues; it is enough here to state that he considers the aims of social reform to be very much a part of tafsir, since, as we have said, one of his main aims is to make tafsir relevant to people's lives and to contemporary society.

iv) Fiqh

Up to now we have not made much mention of the fiqh content in tafsīr, although no tafsīr which purports to be closely related to practical matters can totally avoid fiqh, which is after all intended to regulate Muslims' practical affairs and relations with each other. Accordingly, Tafsīr al-Manār pays some attention

to legal matters and to the sources of law,¹⁸² but it is evidently felt that a tafsīr is not the place for an elaborate discussion of legal questions, since this would then become one of the factors which divert attention from the Quranic guidance.

Shaltut himself, who trained as a faqīh and worked as a lawyer during his period of expulsion (1931-35), often refers the reader to the legal manuals ("kutub al-figh" or "kutub al-furūc") when discussing legal questions.¹⁸³ He does, however, occasionally indulge in a fairly detailed legal discussion, particularly where he wishes to differ from the majority view-point and so needs to show his reasons.¹⁸⁴

In these passages he often gives the majority view or views other than his own first, before proceeding to give his own. In his chapter on Sūrat al-Mā'ida, he discusses the questions of whether the permission firstly to eat the food of ahl al-kitāb and secondly to marry their women (Qur'an 5:5), is mutlaq (unconditional). In the first instance he cites two opposing views and two conflicting fatwās issued by the Lajnat al-Fatwā of the Azhar, not failing to point out that the existence of two opposing fatwas illustrates that the "spirit of ijtihād" is very much alive. Shaltut agrees with the majority view that this

¹⁸²See Jomier, op. cit., Chapter 6: "Le Commentaire du Manar et le Droit Musulman".

¹⁸³E.g. Tafsir, p. 313.

¹⁸⁴We will discuss his treatment of individual legal topics more fully in Chapter Three; here, as with social issues, the aim is to show the extent to which he includes figh in tafsīr.

permission does not overrule the prohibition in Qur'an 5:3 of certain categories of meat, i.e. carrion, blood, pork, and that which has been dedicated to other than God. His reason for this is based more on common sense than on any technical or legal principles; as usual he first looks at the reasons behind the prohibition - i.e. because it conflicts with tawhīd, or because of an intrinsic quality of the meat itself such as being carrion, and then goes on to state that there is no reason to suppose that such a prohibition, which must have been for a valid reason, should be lifted simply because the meat belongs to someone else.¹⁸⁵

As is to be expected, the Qur'an itself is a primary source of law; in his discussion of the circumstances which justify tayammum,¹⁸⁶ like Muḥammad ʿAbduh and Rashīd Riḍā before him, whom he quotes at length, Shaltut bases his opinion on the Quranic text itself and disregards the opinions of the four madhāhib:

We would like here to pause and consider this phrase "if you are ill or on a journey..." of āyat al-tahāra (5:6), and observe its relation to the two preceding phrases, in order to discover - solely on the basis of the Quranic style - the circumstances for which the verse is legislating with regard to tahāra, which would permit

¹⁸⁵ Ibid., pp. 291-94; marriage to the women of ahl al-kitāb is discussed below, in Chapter Four.

¹⁸⁶ Ibid., pp. 323-28, under the heading: "A free discussion of the circumstances in which tayammum is permissible, drawn from the verse (5:6), and a description of the confusion of the majority of the jurists concerning it".

performance of the salāh...¹⁸⁷

Shaltut feels that the Quranic style and phraseology imply that sickness, travelling and lack of water are three separate circumstances which each make tayammum permissible, there being no evidence to suggest that the licence for tayammum in travelling is conditional upon there being no water available.

Shaltut's legal discussions are generally relatively easy to follow and free from complicated technical terms. On occasion, however, he becomes more scholarly; when he is dealing with the aforementioned āyat al-tahāra,¹⁸⁸ he discusses the different interpretations of the parts of wudū', such as "al-mash bi'l-ra's", and here he necessarily becomes more technical in his language,¹⁸⁹ and goes into some detail when discussing the various views of the ḥulamā'. It is probable that he is tempted to include this amount of detail in what is after all a tafsīr and not a fiqh book (and moreover a tafsīr which purports to be straightforward and easily understood by ordinary Muslims), firstly by his training as a faqīh, and secondly perhaps by the fact that he has made comparative Islamic law a special area of study.¹⁹⁰

¹⁸⁷Ibid., p. 323.

¹⁸⁸Ibid., pp. 304-30.

¹⁸⁹E.g. "makānat al-bā' fi qawlihi "bi-ru'ūsikum", hal hiya zā'ida aw hiya li'l-ilsāq" - ibid., p. 306.

¹⁹⁰Cf. Shaltut and Muḥammad ʿAlī al-Sayīs, Muḡāranat al-Madhāhib fi'l-fiqh, Cairo: Maṭbaʿat Muḥammad ʿAlī Subayḥ wa awlāduhu bi'l-Azhar, in which the authors select the procedure for wudū' as an area of study (pp. 7-24).

He then goes on to discuss ghusl, and in particular whether major ritual impurity (janāba) is occasioned by genital contact alone (al-iltiqā') or by the emission of semen inside the vagina in particular.¹⁹¹ He cites the various opinions, going into such minute details as to seem almost pedantic, and uses much technical language which may not be easily understood by the ordinary reader. We feel that Shaltut could more appropriately have referred the reader to the books of fiqh for a detailed discussion of the various views,¹⁹² while confining himself to a brief statement of his opinion in his tafsīr.

Following this, he goes to some lengths to show that neither this verse (5:6) nor any other verse indicates that women should perform ghusl after their menstruation, in order to purify themselves before praying or having sexual relations with their husbands - only to demonstrate that the requirement of ghusl in this case is in fact based on the Sunna.¹⁹³ It is clear in this passage that he is in fact addressing other fukahā' rather than Muslims in general.

He then discusses tayammum at some length.¹⁹⁴ Apart from the passage on the circumstances which justify it, which we have already discussed, and a short piece entitled: "The things which

¹⁹¹ Ibid., pp. 313-15.

¹⁹² This is in fact what he did for the first cause of disagreement that he mentioned in this regard: "Aḥduhumā:..." - ibid., p. 313.

¹⁹³ Ibid., pp. 316-18.

¹⁹⁴ Ibid., pp. 318-30.

remove purity ("nawāqid al-tahāra") as indicated by this verse", he concentrates on bringing out the general significance of tayammum, namely that it represents the symbolic, rather than, for example, the purely hygienic, nature of tahāra. He also gives the reasons for tashrīc al-badal in general, such as feeding the poor instead of fasting, praying by gestures when one cannot perform the full movements, etc. - namely that these things give the Muslim a sense of continuity and enable him to maintain the observance of his religion in an active sense, rather than completely omitting these duties, which might lead to being neglectful of them even when the original reason (ʿudhr) for not doing them was no longer present. Furthermore, this license (rukhsa) and others demonstrate the mercy of God, Who desires to make it easy for men to observe their religious duties. When Shaltut is making these points, he is more in keeping with the spirit of the rest of his tafsīr, for he is always keen to show the reasons behind things, or to demonstrate the ways in which Islam and the Shariʿa are designed to be easy and natural for man, and not to lay burdens on him.¹⁹⁵

When Shaltut is discussing the questions which people address to Muhammad in the Qur'an, the heading: "Legal principles which may be deduced from the questions and their answers"¹⁹⁶ may at first sight appear to indicate some specialised legal material,

¹⁹⁵Cf. also ibid., p. 329, under the heading: "Qāʿidat al-yusr wa-nafy al-ḥarj fi hādha al-tashrīc wa-ghayrihi wa-wujūb muraʿātuhā ʿala al-nāzirin fī ahkām al-dīn".

¹⁹⁶Ibid., pp. 550-55.

but in fact his observations are of a general nature. For example, he observes the fact that the questions concern practical rather than theoretical matters, as well as the fact that there is no intermediary between God and man, that one should commit the lesser of two evils when one cannot avoid both, and that the legality or otherwise of an action is directly dependent on whether it is beneficial or harmful in its effects, and not on any outward appearances. Here he is again bringing out the general nature of the Shari'ah, and the fact that it is for man's good and is based on sound principles.

Commenting on the verse: "Obey God and His Prophet and those in authority..." (4:59), Shaltut talks about the sources of law, but only in a very general way;¹⁹⁷ he evidently felt that a tafsir was not the place for a full discussion of this important subject, which he dealt with at length in another work.¹⁹⁸ Here, he merely enumerates three sources: the Qur'an, the Sunna and "ra'y ahl al-hill wa'l-'aql", and briefly comments on their relationship with each other and with concepts like shūrā, ijmā' and qiyās, following this with the heading: "Ijtihād is one of the sources of law and its gate will be open forever". It is not surprising that he should take the opportunity to stress this fact, in view of its vital importance for the modern Muslim reformers. He follows this with the headings: "Reliance on other sources of legislation is incompatible with faith", and

¹⁹⁷Ibid., pp. 207-11.

¹⁹⁸Agida wa-Shari'ah, pp. 468-550.

"Opposition to Islam and its legislation among some of those who have acquired a foreign (i.e. European) culture", bringing to the reader's attention the precarious position of the Shari'ca today.

Apart from his discussion of legal matters, the influence of Shaltut's training as a faqīh is apparent throughout his tafsīr, as in those places where he is not prepared to accept an argument with no evidence (dalīl or mustanad),¹⁹⁹ or where he takes his opponents' arguments to their logical conclusions,²⁰⁰ or in his detailed discussions where he weighs up all the evidence and mentions the alternative opinions before giving his own.²⁰¹

* * *

In addition to the emphasis on social and legal matters, the practical approach manifests itself in other ways, both in a negative way, i.e. by avoiding certain things such as forcing meanings onto the Qur'an or bringing in material which is of dubious authenticity, or trying to understand or explain that which only God knows, and in a positive way, by making the Qur'anic precepts as clear as possible, by explaining the reasons behind them, and by relating the Qur'an to people's everyday lives by stressing the general nature (ʿumūm) of its contents.

v) Mubhamāt, Isrā'īliyyāt, etc.

¹⁹⁹ See, e.g. Tafsīr, pp. 26 and 55.

²⁰⁰ E.g. ibid., pp. 229-30.

²⁰¹ E.g. ibid., pp. 555-58 and 53-64.

We have already discussed the attitude of Muḥammad °Abduh and Rashīd Riḍā with regard to mubhamāt and dubious ahādīth, and most of what we have said there applies equally to Shaltut. With Shaltut, however, there is no attempt to explain away irrational elements like miracles; provided the sources are valid he is prepared to accept such reports at their face value.²⁰²

When discussing the muḡatta°āt,²⁰³ he is prepared to comment on the effect that these letters might have on listeners, namely that of attracting their attention and making them listen to what follows, but does not agree with those who believe that there is nothing which cannot be understood in the Qur'an, and who bring various unsubstantiated theories as to the meanings of these letters, such as the idea that they represent particular names of God. Shaltut believes that it is God's privilege to have some secrets of His own, both in His creation and in His commands to men, "this being an indication of His omnipotence as opposed to man's weakness".²⁰⁴ He points out that the knowledge which scientists achieve from day to day is but a drop in the ocean of God's knowledge, and there are some things Muslims must accept without fully understanding, just as they accept the religious duties like prayer, without understanding the reason for such details as the precise numbers of rak°as, etc.

²⁰²Cf., e.g., his fatwā on miracles in Fatawa, pp. 48-53.

²⁰³Ibid., pp. 53-64.

²⁰⁴Ibid., p. 56.

When commenting on these letters, then, Shaltut confines himself to concrete observations, such as the effect on the listener, the fact that they are almost all followed by reference to the revelation and to the Qur'an and its attributes, drawing attention to its marvellous nature, and the fact that almost all are Meccan suras, i.e. revealed at a time when there was much controversy and polemics surrounding the Qur'an.

Under the heading: "The correct way to believe in the unseen",²⁰⁵ Shaltut mentions some of the Quranic phenomena about which people ask, such as: how can the people of Heaven and Hell hear each other when they are so far apart, or how can they see each other when there is a curtain (hijāb) between them, and the answers which are sometimes given, and goes on to say:

Thus have some mufassirūn distracted people from the lessons of the Qur'an, and from the warning and the threat, and have described for them the unseen things about which only God knows, in accordance with that which they can see and with which they are familiar; if radio and television had been invented a long time ago, we would have seen people using these in their replies to these questions!

The correct way, however, is to believe in the unseen just as it is mentioned, and within the confines of the Quranic text, without any additions and without trying to use the "seen" as an analogy for the unseen, and in these matters one is only obliged to believe in that which is supported by an appropriate and genuine text from the Qur'an or the Sunna.²⁰⁶

Shaltut does not force meanings onto the Qur'an if there is no valid authority to support a particular point of view, preferring

²⁰⁵Ibid., pp. 494-95.

²⁰⁶Ibid., p. 495.

to leave the question open. When discussing the table which the disciples asked to be sent down,²⁰⁷ he deplores the wealth of isrā'īliyyāt which are contained in most of the classical tafsīrs relating the contents of the table. Similarly the question of whether or not it was actually sent down has consumed much time and energy among scholars in the past; he characteristically takes the sting out of this dispute by saying that whether or not we believe it was sent down, "God has not commanded us to believe in either of these two things, and there is nothing in the Qur'an which makes any one of them certain".²⁰⁸

Thus while it is essential to believe in whatever is contained in the Qur'an, no matter how unusual it appears, without trying to interpret it in such a way as to agree with what is more rational or easily understood, it is equally important not to add anything to these essential beliefs without a valid authority, thus causing unnecessary dissension among Muslims.

One aspect of the unseen is the stories of events that happened long before the time of the revelation - the qisās contained in the Qur'an. Shaltut disapproves of any obscure interpretations being placed on these stories which do not take the words at their face value, whether it be metaphorical interpretations to avoid the seemingly miraculous, as we have seen in Muḥammad 'Abduh and Rashīd Riḍā's interpretation of the story of the cow, or whether it be the even more obscure

²⁰⁷Ibid., pp. 269-72.

²⁰⁸Ibid., p. 272.

symbolism of the Sufis.²⁰⁹ Even worse than these are those who adhere to the theory of takhyīl, believing that the stories are fictional, perhaps at most general historical truths, related purely for their effect.²¹⁰ Shaltut certainly believes that the lessons to be drawn from the stories are the most important consideration,²¹¹ but this does not alter their historical truth; indeed to doubt this is incompatible with the sanctity of the Qur'an, detracting from its whole aura of truth, for if people doubt the veracity of these stories then they are likely to doubt the veracity of other aspects of the Qur'an.²¹²

vi) Theological issues

Shaltut's treatment of theological questions is similarly straightforward; unlike Muḥammad ʿAbduh he was not trained in philosophy and had no taste for the tortuous arguments of theology. In any case he strongly disapproves of all the theoretical controversies on such matters as al-qadā' wa'l-qadar, which he believes to have resulted in unnecessary dissension between Muslims and confusion in their beliefs. In such cases he relies on common sense, and emphasises the essential difference

²⁰⁹ Ibid., pp. 45-46.

²¹⁰ See ibid., pp. 46-47 and p. 273 under the heading: "The opinion of some contemporary pseudo-philosophers concerning the Quranic stories"; no doubt Shaltut is thinking here of Muḥammad Khalafallāh among others.

²¹¹ Ibid., p. 537.

²¹² Ibid., p. 273.

between God and man. He tells us, for example, that it is obvious that man is responsible for his own actions, and has a choice between good and evil, otherwise the whole idea of exhorting men to do good and then requiting them for their actions on the Day of Judgement would be a nonsense.²¹³ Those verses which some take as an indication that God causes people to be misled, etc., should be taken as meaning that he allows them to be misled, and does not stand in the way of it if that is what they choose;²¹⁴ and even if God has complete knowledge of future events, this knowledge has no coercive element to it and does not negate man's freedom of choice.²¹⁵

Similarly in the question of God's bounty versus good works (al-faḍl wa'l-a'māl), Shaltut refuses to see a contradiction between the two; while not denying that there is a causative link between man's good works and the reward he receives, he stresses the fact that God's bounty is unlimited, so that we cannot discuss this as though it was a straightforward business transaction, the reward being exactly equivalent to the believer's good works.²¹⁶ Thus he clearly brings out the difference between man, who is limited, and God, Who is Infinite.

Again, when explaining that mutual assistance between men is not in conflict with the words of Sūrat al-Fātiha: "From Thee

²¹³ Ibid., p. 232.

²¹⁴ Ibid., p. 231.

²¹⁵ Ibid., p. 234.

²¹⁶ Ibid., pp. 485-86.

(alone) do we ask help", he quite simply draws a distinction between the sphere of humanity and that of divinity: "for this mutual assistance is within the sphere of human limitations and does not exceed it" - while God's help is clearly on a different plane.²¹⁷ Thus Shaltut in some cases obviates the need for theological dispute by stressing the essential difference between God and man.

vii) "Al-hikam"

In order to stress the significance of certain matters, and, in the case of good deeds or acts of worship, encourage people to observe them, Shaltut frequently refers to the underlying reasons for them, often under a heading beginning: "Al-hikma fī..." or "Sirr...". Among other things, he relates the reason why God told us the story of the table, why certain times and places are sanctified, why God addresses us as "Banū Ādam", why God ordered the Muslims to refute their agreements with the polytheists and wage war on them, and the reasons for sujūd al-tilāwa.²¹⁸

In the latter case, the Qur'an itself provides Shaltut with all the reasons. He sees sujūd al-tilāwa as an important symbolic act of worship which is neglected by Muslims, for in the Qur'an the verb sajāda is used to describe the unalterable state of the whole of creation in its relationship to God: "Unto God prostrate

²¹⁷Ibid., p. 30.

²¹⁸See ibid., pp. 274-75, 300-2, 469-70, 624ff., and 509-11 respectively.

all who dwell in the heavens and the earth, willingly or unwillingly, and their very shadows, in the morning and the evening." (13:15). It is furthermore an attribute of those who possess faith and knowledge (17:107), and the kāfirūn's refusal to prostrate before God (25:60) makes it a symbol of opposition to and dissociation from them. We are reminded that God alone is worthy of our prostration (41:37), thus it becomes a symbol of tawhīd. Moreover, by the act of prostrating we are following in the footsteps of Muhammad and the other Prophets, as well as "those who are with God" (96:19, 19:58, 7:206).²¹⁹

viii) The universality of the Qur'an

Many of the Quranic verses are associated with particular occasions of revelation (asbāb nuzūl), and some scholars have taken those verses, or some of them, to be applicable only to the exact circumstances in which they were revealed, or to apply only to those persons whom they concerned, who lived at the time of the revelation. Like Muhammad ʿAbduh and many other modern-day reformers, Shaltut believes that the Quranic text in general is of universal significance, applying to all Muslims of all ages, even where a verse was prompted by a specific event. This principle is expressed by the phrase: "al-ʿibra bi-ʿumūm al-lafẓ lā bi-khuṣūs al-sabab".

Discussing the verse: "Oh believers, remember the favour which God bestowed on you when certain people were about to stretch out

²¹⁹Ibid., pp. 509-11.

their hands towards you, but He restrained them..." (5:11),²²⁰ Shaltut says: "As usual the mufassirūn try to make this verse refer to a particular event...", and he goes on to give two of the well-known versions of the events which prompted this verse, concluding:

In our understanding, the verse is a general reminder of the acts of aggression against Muslims and their enemies' attempts to plot against them and to kill them, ever since the beginning of the da'wa up to its end; there is no doubt that it is also a reminder of their good fortune in escaping from danger, and of the fact that they had sufficient strength to ward off their enemies. It also draws attention to the fact that the reason for it (i.e. the escape) was their truthfulness, the sincerity of their intentions and their spirit of solidarity in repelling the ruses of those who sought to deceive them...²²¹

Under the heading: "In its universality, this verse applies to all Muslims up until the Day of Judgement", Shaltut goes on to state that Muslims will always find themselves in situations like these, and God's ni'ma (blessing, comfort etc.) will always be there to help those Muslims who are sincere believers; it is one of the characteristics of the Qur'an to remind the Muslims of God's help to them in times of adversity, and this provides an inspiration to all future generations.²²²

Commenting on the verse: "When the Qur'an is recited, listen to it in silence so that God may show you mercy" (7:204), Shaltut relates the opinions of some scholars that this verse applies

²²⁰Ibid., pp. 339ff.

²²¹Ibid., p. 340.

²²²Ibid., p. 341.

only to a specific situation, for example talking during ṣalāh or during the khuṭba, or reading Sūrat al-Fātiḥa behind the Imām silently or out loud.²²³ Apart from the fact that these interpretations are not in keeping with the context of the verse, or with the time of revelation, Shaltut refutes them on the simple grounds that if the Qur'an does not even give precise directions as to such basic things as the number of rak'as in each prayer or the number of prayers in a day, then how should it refer to such minor details as these? He prefers to dwell on the significance of the verse as regards the general spirit in which one should listen to the Qur'an.²²⁴

f) Structure and Style

Style as such is not a paramount consideration in a tafsīr which aims first and foremost to guide. However, Shaltut was a preacher, and no doubt aware that eloquence can help the cause of guidance.

There are some elements in his tafsīr which may be considered "unsystematic"; we have already mentioned the fact that the length of the chapters is not necessarily proportionate to the length of the suras with which they deal, and that there is a certain selectiveness as regards the topics to be discussed. In addition to this one finds some digressions, although these are

²²³Ibid., pp. 506-7.

²²⁴Ibid., pp. 507-9; other places where he refers to the universality of certain verses or Qur'anic precepts include pp. 107ff., 151 and 637.

usually intentional, often under a heading: "Ist itrād...". These sections do not contain anything unusual, or anything which would not normally be a part of his tafsīr, but simply imply that he intends to return to what he was talking about before the istitrād, as where he devotes thirteen pages to talking about the disciples and the story about the table near the beginning of the chapter on Sūrat al-Mā'ida, then returns to talking about the more general aspects of the sura.²²⁵ In the chapter on Sūrat al-Anfāl, he "returns" to the beginning of the sura not once but twice.²²⁶

There is also a certain amount of repetition, as where he discusses the "suwar al-ḥamd" in two different places,²²⁷ or where he reviews each of the first four long Medinan suras in his chapter on Sūrat al-An'ām, reiterating some of what he has already said in the chapters concerned.²²⁸

When discussing the structure of Shaltut's tafsīr, we should remember that it was first published not as a unified work but in instalments in a periodical. Notwithstanding this, these features, which may at first make Shaltut's work appear less orderly and systematic than one might wish, will be seen to fulfil important functions when we bear in mind the main aim of

²²⁵ Ibid., pp. 262-75; cf. also pp. 382-84.

²²⁶ Ibid., pp. 533 and 560 under the headings: "Awda ilā maṭla' al-sūra" and "Awad 'alā bad'".

²²⁷ Ibid., pp. 23-25 and 363-68.

²²⁸ Ibid., pp. 352-60.

his tafsīr. The varying lengths of the chapters and the selectiveness are a natural consequence of the "topical" approach; as we have said, some of the legal topics which occur in Sūrat al-Baqara are dealt with under other suras where they occur. Thus Shaltut does not arbitrarily omit important topics but simply deals with them where he feels it is most appropriate. The digressions are likewise a result of the "topical" approach, enabling him to deal with topics as they occur, then return to the Quranic text with which he was dealing, in order to select another aspect of it for study. The very fact that he refers to these passages as "istitirād"s shows that he does in fact have a particular arrangement in mind. As for the repetitions, these arise partly from the didactic nature of the work; the Qur'an itself is a prime example of the use of repetition in order to reinforce lessons.

We could perhaps more appropriately call "digressions" those places where Shaltut gives free rein to his train of thought or to his emotions, where his tafsīr comes nearer to what has been referred to as "the association of ideas"²²⁹. Often this is where his character as a preacher and orator is most in evidence, and where he wishes to make full use of a point and bring it home to his audience as vividly as possible.

Commenting on the general significance of the verse: "Help one another in what is good and pious, not in what is wicked or

²²⁹Supra, p. 68.

sinful. Have fear of God, for He is stern in retribution" (5:2),

Shaltut says:

When will the Muslims, then, submit to the teachings and guidance of their Lord, when He orders them to be a single nation, with no strife or dissension, no fighting or disunity, and no fanaticism, whether it be racial or ideological? Why these long-standing disputes which have turned them from their goal and led them astray, and divided them into sects and parties? Why this division, when they all agree on the unity of God, and all believe in His revelation and His messengers and in the Day of Resurrection and Requital, and in the principles of the Shari'ah which the eternal Book of God has laid down, making them a protection for all...²³⁰

He continues in this vein for two more paragraphs.

It is in more general passages like this that his eloquence is often most in evidence. Like al-Marāghī, he tends to make use of strong, emotive words in order to persuade the reader, often juxtaposing words which denote that which is definitely good and beneficial with those that denote the opposite, thus emphasising the desirability of the former:

Thus God wishes the family to be built on a foundation of mutual love and beneficence and on reciprocal rights and duties, so that the family will be a source of men who will be an asset to their nation, and society will consist of noble families which know neither humiliation nor injustice, nor oppression nor subjugation.²³¹

This homiletic style of writing, where Shaltut is at his most idealistic, can be found in virtually all his works.²³²

²³⁰ Ibid., p. 302.

²³¹ Ibid., p. 408.

²³² See Chapter Three, section 2 for an analysis of the sermonising content of his fatwās.

When appraising Shaltut's style we should remember the deep influence the Qur'an exercised on him, just as it did with many scholars before him. In view of the fact that Shaltut was brought up in close contact with the Qur'an from a very early age, it is not surprising that his work has some of the characteristics which he attributes to the Qur'an itself. We have just mentioned the element of repetition, which is to be found both in Shaltut's work and in the Qur'an; similarly the way in which he juxtaposes the good and the bad for emphatic reasons corresponds with the Quranic style, as where descriptions of those who do good and their reward are juxtaposed with descriptions of those who do evil and their punishment.²³³ Just as Shaltut points out the way in which the Qur'an gives reasons for its legislation,²³⁴ so does he himself like to give the underlying reasons for things; and just as the Qur'an, after relating a story or an event, "seizes the opportunity" to relate the general principles which can be drawn from it,²³⁵ so does Shaltut like to derive general principles, as we discussed earlier. Like the Qur'an, he makes use of persuasive and emotive language to influence his audience, and like the Qur'an, the material is not arranged according to

²³³See also Agida wa-Shari'a, p. 274, where Shaltut comments on the Quranic style of placing warnings against economic injustice, exploitation, etc., alongside exhortations to generosity and compassion.

²³⁴Tafsir, pp. 625ff.

²³⁵Ibid., p. 218.

any strict system or order, but so as to best suit the aim of guidance.

Just as Shaltut's tafsīr is not a literary work properly speaking, neither is it a scholarly dissertation; thus Shaltut can allow himself when giving the opinions of others, to use phrases like "ba^cd al-^culamā'" - although this is sometimes because the opinion in question is considered to be common knowledge - or when giving his own opinion to introduce it with a phrase like: "Experience has shown...". Nevertheless, we would not describe his work as "unscholarly" either, for he rarely gives unfounded opinions, and is able to rely on his solid background of Islamic scholarship. Where he deems it appropriate he quotes scholars such as al-Rāzī, al-Qurtubī and Muḥammad ^cAbduh, usually where he feels they have expressed a point particularly well.²³⁶

The major part of his tafsīr is of a simple and straightforward nature, even more so than Tafsīr al-Manār, for there are none of the long scholarly digressions to which Rashid Rida is prone. As we have mentioned, he does occasionally transform himself from a popular preacher to a jurist addressing his fellow jurists, but these passages taken together would not amount to more than twenty or thirty pages of his whole "Tafsīr".

One factor very much in evidence in Shaltut's writings is the desire to avoid any provocation which might lead to disunity among Muslims; we have already mentioned many facets of this,

²³⁶ Ibid., pp. 268, 310, 544, 301 and 325ff.

such as his disapproval of theological disputes and of sectarianism in any shape or form. It is also apparent in his "adab" as a scholar; when he is disapproving of a particular school of thought or tendency, he will not name names - something that an ordinary Western or secular scholar, for example, would have no scruples about. This reluctance to criticise people by name is apparent in his introduction, where, unlike Rashīd Riḍā, he abstains from criticising the many different types of tafsīr (legal, grammatical, etc.), and where he criticises tafsīr ʿilmī, without naming even al-Rāzī. This adab also accounts for some of the occasions where he cites "baʿd al-ʿulamāʾ" or "kathīr min al-ʿulamāʾ" as authorities for opinions which he finds invalid or unconvincing. We will see the same spirit of conciliation in some of his legal rulings in Chapter Three.

By the same token, Shaltut is careful to distinguish between the khilāf (disagreement) which causes disunity and the areas where khilāf is permissible and even desirable, being evidence of the breadth and flexibility of the Shariʿa.²³⁷ In those areas which are subject to ijtihād, such as whether or not Muslims can eat the meat of animals slaughtered by ahl al-kitāb, or the exact procedure for wuḍūʾ, Shaltut does not present his opinion as the conclusive or only correct one, but ends with a phrase such as: "li-kulli mujtahid naṣīb" ("each mujtahid will have his reward").²³⁸

²³⁷ Ibid., pp. 311-12.

²³⁸ E.g. ibid., pp. 294 and 312.

3) Tafsīr After Shaltut

Since Shaltut wrote his tafsīr in the 1940's and 50's, the ideas of tafsīr maudū'ī and of the sura as an organic unity have become increasingly popular. There are countless publications now dealing with one particular sura of the Qur'an; but most of them, notwithstanding their description as "tafsīr maudū'ī", adhere more closely to the Quranic text in its tartīb mashafī, printing pericopes each followed by a section of commentary.²³⁹ Some of the apparent "innovations" are merely formal; for instance a full tafsīr may be split up into smaller books each dealing with a sura or two in order to make the material more accessible.

There are increasing numbers of works which deal with the literary aspects of the Qur'an,²⁴⁰ and some which deal specifically with the organic unity of the sura or with topical unity in the Qur'an in general.²⁴¹

We have mentioned the wide popularity of Shaltut's tafsīr, which has been distributed throughout the Arab world. That it is

²³⁹E.g. The series of tafsīr of selected Suras of the Qur'an by Muhammad al-Bahī.

²⁴⁰E.g. Sayyid Qutb, Al-Taswīr al-Fannī fī al-Qur'ān al-Karīm, and Muḥammad Khalafallāh, Al-Fann al-Qaṣaṣī fī al-Qur'ān al-Karīm.

²⁴¹E.g. Muḥammad Maḥmūd Hijāzī, Al-Waḥdat al-Maudū'iyya fī al-Qur'ān al-Karīm, and H.M. Bājūrī, Al-Waḥdat al-Maudū'iyya fī Sūrat Yūsuf. Cf. also 'Abd al-Ghaṇa Aḥmad Nājī, Min Adab al-Qur'ān al-Karīm, a work in which each section deals with a particular aspect of a particular sura, e.g. "The juxtaposition of opposites in Sūrat 'Al 'Imrān" and "Defense of and opposition to the truth in Sūrat al-Ḥajj".

regarded as common property is illustrated by the fact that a Professor in the Faculty of the Shari'a and Islamic Studies in the King 'Abd al-'Azīz University in Mecca, Muḥammad 'Abd Allah al-Sabuni, who wrote a sort of patchwork tafsīr "drawn from the most reliable works of tafsīr", entitled "Safwat al-Tafsīr", draws extensively on Shaltut, often quoting him verbatim in his introductory passages to the long Medinan suras.²⁴² This should not be regarded as plagiarism, since among Muslims knowledge, and particularly religious knowledge, is regarded as something to be shared; ideally, the author does not seek credit from men for his originality, but reward from God for spreading knowledge and guiding people. The fact that Shaltut's tafsīr is well known, and that al-Sabuni often quotes him verbatim, also goes against the idea of plagiarism.

As regards Shaltut's influence in the sphere of tafsīr, it is of course difficult to evaluate; perhaps it would be more apposite to observe to what extent his style and methods have increased in popularity in the latter half of this century, leaving the reader to draw his own conclusions as to the extent of his direct influence in this regard.

²⁴²See, e.g., pp. 376-77 of vol. 1 of his Safwat al-Tafsīr, 3 vols., 4th ed., Beirut: Dār al-Qur'ān al-Karīm, 1981, where he divides the subject matter of Sūrat al-An'ām into the same three categories as does Shaltut ("qāḍiyyat al-ulūhiyya", "qāḍiyyat al-wahy wa'l-risāla", and "qāḍiyyat al-ba'ṭh wa'l-jazā'"), and uses Shaltut's idea of the two prevailing styles of the Sura- "taqrīrī" and "talqīnī", often using Shaltut's phraseology as well (see Tafsīr, pp. 376-77).

Muhammad ʿIzza Darwaza (d. 1962), a Syrian, did much of his writing in the 1930's and '40's, but did not have it published until the '60's; therefore it would be difficult to establish any direct influence between him and Shaltut either way. Some of his earlier works, such as "Sīrat al-Rasūl min al-Qur'ān" and "ʿAsr al-Nabī wa-bī'atuhu min al-Qur'ān" may be considered tafsīr maudūʿī. His tafsīr proper, "Al-Tafsīr al-Hadīth", deals with the suras in the order of their revelation, so that the reader may appreciate the "atmosphere" in which the revelation took place ("jaww al-nuzūl"), and the progressive stages of the prophetic mission.²⁴³ Although he divides the text into pericopes as he considers appropriate, he aims among other things to make use of context and to observe the relationship between the verses and sections in order to make the Quranic arrangement (naẓm) clear.²⁴⁴ The stated aims of clarity and simplicity and of using the Qur'an as a source of tafsīr are now so commonplace as to be taken for granted in modern tafsīrs. Notwithstanding these things, his tafsīr is more traditional than Shaltut's, having a more formal arrangement and including such details as asbāb nuzūl and lexical and grammatical comment, albeit brief.

The tafsīr of Sayyid Qutb (d. 1965), "Fī Zilāl al-Qur'ān", is considerably longer than Shaltut's, filling thirty volumes, and deals with the Quranic text in full. However, there is some

²⁴³ Muhammad ʿIzza Darwaza, Al-Tafsīr al-Hadīth, 4 vols., Cairo: Dār Iḥyā' al-Kutub al-ʿArabiyya, 1962, p. 8.

²⁴⁴ Ibid., p. 7.

similarity in the style of the two men, inasmuch as Sayyid Qutb's work consists almost exclusively of the "sermonising" type of tafsīr which has become increasingly popular in recent times; it has been described as "an enormous collection of sermons".²⁴⁵

In the work of Muḥammad Muḥammad al-Madani (d. 1969?), we find something much closer to Shaltut's tafsīr; we have already referred in Chapter One to al-Madani's admiration of Shaltut's reform ideas, and the fact that they worked together in Jamā'at al-Tagrīb bayna al-Madhāhib, so in this case we can assume some direct influence. Al-Madani has written two books on particular suras, concentrating, as the titles show, on the major aspects of those suras: "Al-Mujtama' al-Islāmī kamā tunazzimuhu Sūrat al-Nisā'", and "Al-Qaṣaṣ al-Hādif fī-Sūrat al-Kahf". In the Introduction to the former, he puts forward some of his views on tafsīr and Quranic studies. He believes that each sura has its own unique spirit which affects its style and content.²⁴⁶ He laments the fact that Quranic studies have generally been fragmentary, instead of viewing the Qur'an or the sura as an integral whole; he likens this attitude to one who, confronted with a magnificent and lofty building, is so preoccupied with its stones and individual features that he is unable to appreciate

²⁴⁵Jansen, op. cit., p. 79, fn. 15.

²⁴⁶M.M. al-Madani, Al-Mujtama' al-Islāmī..., Cairo: Al-Majlis al-A'lā li'l-Shu'ūn al-Islāmiyya, 1973, p. 5.

its true magnificence, which can only be brought out by a comprehensive, overall view.²⁴⁷

Al-Madanī extols the virtues of diversity and individuality in tafsīr, which has in the past been all too homogeneous. He likens the sphere of Quranic studies to Sufism, in its richness and endless possibilities.²⁴⁸ This seems to imply a spirit of tolerance which is akin to Shaltut's, especially when we compare this to Amin al-Khuli's desire to minimise as far as possible the element of subjectivity in tafsīr, which he feels to be a kind of undesirable bias (talwīn); even Muḥammad 'Abduh's emphasis on hidāya is seen as a form of talwīn.²⁴⁹

As with Shaltut, al-Madanī's tafsīr is arranged not according to the order of the text but according to the topics contained in the sura. In his work on Sūrat al-Nisā', after an introductory section in which he gives a general summary of the sura's contents and discusses such things as the position of the sura in relation to other suras as regards order of revelation, and the Qur'an's concern with women in general, he divides the book into two sections. The first discusses at length the general principles on which the Islamic community should be founded, such as equality, faith in God, social solidarity, justice, then discusses al-āyāt al-muwajjihā (the verses which contain general

²⁴⁷Ibid., p. 6; this is of course reminiscent of Dirān's view.

²⁴⁸Ibid., p. 9.

²⁴⁹Amin al-Khulī, op. cit., pp. 296-99.

directives to the Muslims) and al-āyāt al-mubashshira (the verses which give encouragement to the Muslim community). In the middle of this first section he discusses two of the literary characteristics of the Qur'an - that of ending verses with God's attributes, and that of constant variation of themes (al-tanagḡul wa'l-tawzī'). In the second section he deals with the legislation contained in the sura with regard to such things as orphans, polygamy, inheritance, family life, financial dealings etc.

Although this book does not bear the title of "Tafsīr", it could easily be regarded as such, its contents being very similar in some respects to Shaltut's tafsīr. Apart from dealing with many of the same topics, he selects aspects of the sura which he deems worthy of study, like the āyāt muwajjiha wa-mubashshira, just as Shaltut chooses to study, for example, the nidā'āt contained in particular suras; commenting on particular characteristics of the Qur'an is a further similarity. A brief look at any part of the texts of the two works will show that they are not dissimilar in their general style.

Another scholar who deserves mention here is 'Abd Allāh Maḥmūd Shihāta, a pupil of al-Madani²⁵⁰ and Assistant Professor in Dār al-ʿUlūm at Cairo University. His series entitled: "The Aims and Objectives of each Sura in the Glorious Qur'an" draws extensively on Shaltut when discussing the first ten suras of the Qur'an, quoting him verbatim much of the time. Somewhat surprisingly,

²⁵⁰'Abd Allāh Maḥmūd Shihāta, Ahdāf Kulli Sūra wa-Maqāsiduhā min al-Qur'ān al-Karīm, 3 vols., Cairo: Al-Hay'at al-Miṣriyyat al-ʿĀmma li'l-Kitāb, 1976-78, p. 6.

since Shihāta mentions Shaltut, along with al-Marāghī, Dirāz, al-Madanī and Sayyid Qutb, as one of those scholars who have been influenced by Muhammad 'Abduh with regard to the unity of the sura,²⁵¹ he does not acknowledge this reliance on Shaltut's work. However, the form which his work takes is interesting; he devotes only about fifteen pages to each of the long suras, picking out the more central themes with which Shaltut dealt. The later and shorter suras, with which Shaltut did not deal, have correspondingly shorter chapters devoted to them; this continuation, as it were, of Shaltut's work (albeit in far less detail), would appear to represent Shihāta's original contribution.

This work is an interesting illustration of the grey area between that which is tafsīr and that which is not; it does not call itself tafsīr, no doubt because the suras are dealt with so briefly. It would appear, however, that there is no exact definition of tafsīr which suits the modern situation - it is the author's choice whether or not to call his work tafsīr; perhaps this is because the dividing line between tafsīr and general religious studies has virtually disappeared; since their aim is acknowledged to be the same, it is no longer of pressing importance to distinguish between the two. The important thing is that the work should provide guidance for the reader and increase his understanding of the Qur'an.

²⁵¹ Ibid., p. 5.

Conclusion

To sum up briefly, we can say that the general style of Shaltut's "Tafsir" is in keeping with the modern tendency towards increased simplicity and clarity, and towards a more practical approach. Its form and arrangement are innovative, representing an increased informality vis-à-vis Tafsīr al-Manār, in order to accommodate the requirements of topical tafsīr. However, the actual contents are in no way "extreme"; Shaltut is a moderate Islamic reformer, as we would expect of one who attained the position of Shaykh al-Azhar, and he was fortunate enough to write his tafsīr in an age when the ʿulamāʾ of the Azhar and other religious institutions were more willing to face the challenge of the modern world than in Muhammad ʿAbduh's day, so that his tafsīr won admiration from them as well as from Muslims in general.

No moderate Islamic reformer aims at startling originality - this would almost certainly entail bidʿa (blameworthy innovation) of some kind; what he aims at is to preserve a delicate balance between the Islamic heritage and the requirements of the modern age, giving each its due, and to avoid the two extremes - that of the Westernising modernists and that of the reactionary mugallidūn.²⁵² Shaltut's popularity is no doubt due in no small measure to his success in maintaining this delicate balance.

²⁵²Cf. al-Madani, op. cit., pp. 7-9.

CHAPTER THREESHALTUT AS FAQĪHIntroduction

The Shari'ca is the most vital area of concern for modern-day Muslim reformers. In Islam, law is to a large extent identified with the religion itself; to be a good Muslim means to adhere to the Shari'ca to the best of one's ability. The adoption by Muslim countries of Western style codes of law and the erosion of the authority of the Shari'ca courts, a process which began in the latter half of the nineteenth century, caused grave concern to many serious-minded Muslims including Shaltut.¹

Shaltut must have felt that he could combat this most effectively from a position of authority within the Azhar, while others were attracted to militant opposition groups, most notably in Shaltut's time the Muslim Brotherhood. However, the problem was not simply one of somehow persuading governments to apply the Shari'ca instead of Western style laws; many of the opposition groups who call for the total application of the Shari'ca would no doubt be at a loss if they were handed the reins of government tomorrow, since they have not so far bridged the gap between the Shari'ca and the complex process of governing a state in the twentieth century.²

¹Tafsir, p. 148.

²Cf., eg., Daniel Pipes, Oil Wealth and Islamic Resurgence, in Islamic Resurgence in the Arab World, ed. A. Dessouki, New York: Praeger, 1982, pp. 37-38 and passim.

Shaltut works primarily at the theoretical rather than the political end of this struggle. It should be stressed that unlike many modern Muslim reformers, including Muḥammad ʿAbduh and Rashīd Riḍā, Shaltut was a trained faqīh; in him we find a scholar who is well-versed in the Shariʿa and its principles while at the same time being concerned with its application to the contemporary political reality and the problems raised by modern civilisation.

The Range of Shaltut's Legal Thought

In the words of an eminent Muslim legal scholar of this century:

The Muslim scholars of all madhhabs have agreed that all a man's sayings and actions, whether they be acts of worship or worldly affairs or crimes or personal relations, or any kind of contract or disposal (tasarrufat), have their status (ḥukm) in the Shariʿa...³

In view of this comprehensive nature of the Shariʿa, it is sometimes difficult to draw a clear line between "legal" and "non-legal" material, especially in the work of a writer like Shaltut whose legal discussion is rarely dry, but is generally incorporated into the hortatory genre. A brief survey of some of Shaltut's writings will illustrate the wide range of his activity in the legal sphere, and indicate which sections fall most appropriately under the heading of fiqh.

³ʿAbd al-Wahhāb Khallāf, ʿIlm Usūl al-Fiqh, 11th ed., Kuwait: Dār al-Qalam, 1977, p. 11.

At the most basic level we find his fatwās, written or broadcast in reply to Muslims from all over the world who have addressed their problems to Shaltut. These form an essential part of his work, for the passing on of knowledge has always been perceived as a bounden duty on the ʿulamā; Shaltut quotes two hadīths which stress the importance of sharing knowledge.⁴ These fatwās, which represent the consummation of the theoretical and the practical, will be central to this chapter.

In ʿAgida wa-Shariʿa, the bulk of which is in fact devoted to "Shariʿa", we find a slightly more theoretical treatment of the law, tending to deal in general concepts rather than specific situations. Part Two, entitled "The Shariʿa", is divided into the following areas: ʿibādāt (acts of worship), family law and inheritance, financial dealings, penal law, civil and criminal liability, and the umma (constitutional and international law).

However, the treatment accorded to these various sections is somewhat uneven; in the section on ʿibādāt he deals not so much with the legal details appertaining to the various acts of worship, as with their general nature and significance. The content is of a similarly general nature in the section on family law, where we find headings like "The principles of Islam with regard to the formation of the family", and "Islam's view of women", and inheritance law receives a cursory treatment in just four pages. Even in the area of financial transactions the emphasis is on general moral teachings, with headings like "The

⁴Fatawa, p. 16.

status of wealth in Islam", "Islam wages war on miserliness, extravagance and indulgence in those who are wealthy", "A call to spend in the way of God", "The effect of fraud on society", and so on.

However, the section on penal law covers over a hundred pages, and in addition to a treatise on the nature and various types of punishment in Islamic law, includes a detailed discussion of homicide and retaliation (qisās), where the sources are examined in some detail. The section on civil and criminal liability, though shorter, deals with several principles of substantive law, and includes some comparison of the madhāhib, and will therefore be relevant to our discussion on comparative jurisprudence. The section on the umma returns to the more general style, discussing broad concepts like "justice" and "shūrā" (consultation), and giving very cursory treatment to subjects like "war in Islam". The third and final part of ʿAqida wa-Shariʿa is entitled "The Sources of Law", and its importance for this chapter is self-evident.

It remains to mention Shaltut's work on comparative jurisprudence; his work "Muqāranat al-Madhāhib fi'l-Fiqh", written in conjunction with Muhammad ʿAlī Sāyis, was intended as a text book for students in Kulliyat al-Shariʿa of the Azhar; unlike his other works, it contains much juristic detail and technical terminology.

We will begin with a discussion of Shaltut's section on the sources of law, as a prelude to his fatawā, where we will be able

to see how he actually uses and combines those sources in specific situations; this will be followed by a look at his systematic treatment of the area of penal law, in view of his detailed treatment of the subject; finally, we will discuss his more specialised work on comparative law.

1) The Sources of Law

In his section dealing with the sources of law,⁵ Shaltut begins with an introductory passage where he enumerates three sources: the Qur'an, the Sunna and ra'y (personal opinion), which is based on the first two sources and consists primarily of analogy and the application of the general principles of the Shari'a such as "the removal of harm", "the preservation of the public interest", and "duress makes forbidden things permissible". He follows this introduction with a section on each of the three sources.⁶ Thus there is a departure from the traditional classification of the sources of law, the concepts of qiyās and ijmā' being subsumed under the heading of ra'y.

a) The Qur'an

After discussing various questions relating to the definition of the Qur'an, its essential features and its "Arabness", Shaltut

⁵Agida wa-Shari'a, pp. 468-550.

⁶A section entitled: "The reasons for disagreements about the legal content of the Qur'an and Sunna among imāms", which is inserted between the section on Sunna and that on ra'y, will be discussed in the section on comparative jurisprudence.

puts the Quranic legislation into perspective by listing the many elements which the Qur'an contains, such as creed, morals, and al-wa'd wa'l-wa'id (the Promise and the Threat), of which legislation (ahkām amaliyya) is only one. He then lists the approximate number of Quranic verses on particular topics of legislation, showing that they form a relatively small portion of the Qur'an.⁷

He points out that the Qur'an did not bring a completely new system of legislation, and was not revealed in a vacuum, but built upon the social reality in which it appeared, confirming what was beneficial, forbidding what was harmful, and modifying certain other things.⁸

Under the subheading, "The Quranic method of propounding legal rulings (ahkām)", Shaltut lists various features of the Quranic legislation.⁹ He first draws a distinction between those ahkām which are fixed and unchangeable, such as the duty to pray, and those areas which are open to discussion, such as exactly how much riḍā' (suckling) gives rise to tahrīm (marriage prohibition). In these cases, there is no one correct opinion, but the mujtahid must bear in mind the public interest (maṣlaḥa).¹⁰

⁷Ibid., pp. 479-81.

⁸Ibid., pp. 481-84.

⁹Ibid., pp. 484-89.

¹⁰Ibid., pp. 484-86.

Secondly, unlike man-made laws, the Quranic legislation is not dry, but interspersed with targhīb and tarhīb (the inspiration of desire and awe), couched in a variety of styles designed to evoke a positive response. Unlike man-made systems which have to rely only on temporal sanctions, divine systems provide the added dimension of religious sanction.¹¹

Thirdly, the legislative material in the Qur'an is not laid out as in legal manuals, classified according to subject matter; on the contrary, there are verses on the same topic scattered in different places, and the Qur'an has frequent and often abrupt changes of legal subject matter. Shaltut's comments in this regard are relevant not just for the ahkām in the Qur'an but for the Quranic style in general:

...in this regard it (the Qur'an) is very much like a garden, whose fruits and flowers are scattered all over it, so that wherever a man finds himself in it he is able to obtain a selection of different flowers and fruits which will be beneficial and pleasing to him...¹²

He points out that this characteristic of the Qur'an also means that it must be taken as a whole - one cannot take a section which deals with a particular sphere of legislation and study it in isolation. Moreover it fulfils the didactic aim of avoiding the reader's preoccupation with one topic to the exclusion of others.¹³

¹¹Ibid., p. 486.

¹²Ibid., p. 487.

¹³Ibid., pp. 487-88.

Fourthly, the Quranic legislation is usually of a general nature; It only goes into details when dealing with matters which are too important for any disagreement to be countenanced concerning them, such as creed and worship, or when dealing with those areas of legislation which are fixed and not subject to ijtihād, such as the ḥudūd (fixed penalties for certain crimes), the farā'id (fixed shares of inheritance), etc. In other matters, it supplies general principles; for example it enjoins justice on those who pass judgement, but does not give details of juridical procedure. Shaltut points out that "expounding in detail that which is unchanging and in general that which is subject to change" is an essential characteristic of a religion which claims to be eternally valid.¹⁴

b) The Sunna

In this section Shaltut first discusses the evolution of the word sunna and its various usages in order to clarify that the usage with which he is concerned here is that of the scholars of uṣūl al-ḥiḡh (the principles of jurisprudence), i.e. the sayings, actions and silent approval of the Prophet which are used as a secondary source of law to the Qur'an.¹⁵ He points out that since the Qur'an does have some ambiguities and lacunae, the Sunna fulfils various roles in relation to it, i.e. takhsīs al-^cāmm (excluding a particular section from a comprehensive category),

¹⁴Ibid., pp. 488-89.

¹⁵Ibid., pp. 490-94.

taqyīd al-mutlaq (qualifying that which is unqualified, thus restricting its application), and bayān al-mujmal (clarifying that which is unclarified, e.g. by supplying details), as well as being an independent source of legislation. He quotes several instances where the Qur'an itself confirms the importance of the Prophet's example.¹⁶

Shaltut then discusses the reasons for the difference in status between the Qur'an and the Sunna. He points out that the Qur'an is superior to the Sunna in the following ways: firstly, the Qur'an was written down during the Prophet's lifetime, while only a few ahādīth were; secondly, the Qur'an has been transmitted bi'l-tawātur (i.e. by a sufficiently large number of authorities in every generation to guarantee its authenticity), both through the medium of writing and in people's memories, while most of the Sunna is āhād (i.e. not mutawātir); thirdly, stricter criteria were applied with regard to the transmission of the Qur'an, whereby it was necessary to observe the exact wording, while the Sunna could be transmitted in such a way as to convey the sense but not the exact wording; and fourthly, the Quranic text was verified and examined in minute detail, in that the Companions would consult the Prophet even regarding a single letter of it in order to be sure of the correct reading, while there was nothing like this with the Sunna. The effect of this difference in status is that essential matters of faith and creed can only be based on the Qur'an, since it alone provides absolute

¹⁶ Ibid., p. 497.

certainty, and that more disagreements arise concerning the Sunna than the Qur'an.¹⁷

Shaltut then draws an important distinction within the Sunna, between that which has legislative relevance and that which has not. Into the latter category fall the Prophet's purely human actions, such as eating and drinking, things which depend on human experience or social usage such as agriculture and medicine, and things of an organisational nature such as military tactics, which depend on human initiative.¹⁸

As for those ahādīth which are legally binding, these too must be divided into those which are of universal relevance (tashrīc cām) and those which are not (tashrīc khāss). Into the first category fall those things he did in his capacity of prophet, such as his explanations concerning the Qur'an and acts of worship, the halāl and the haram, and morals. However, his actions and decisions in his capacity of Imam and leader of the Muslims, such as administering the treasury and appointing governors, or as a judge, cannot normally be executed by any individual, but would require the sanction of an appropriate authority.¹⁹

Since much confusion has arisen as to the status of many ahādīth, some people claiming that the Prophet's purely human actions were legally binding, Shaltut points out the importance

¹⁷Ibid., pp. 498-99.

¹⁸Ibid., p. 499.

¹⁹Ibid., pp. 500-1.

of properly classifying ahādīth in this way in order to define their legislative status. He gives several examples of disagreements which have arisen among scholars of uṣūl as to whether a particular action of the Prophet was in the nature of a general communication, and therefore universally applicable, or whether it was in his capacity of imām and leader, and therefore dependent on the imām's consent. For example, scholars have differed concerning his pronouncement that anyone who cultivates barren land thereby becomes its owner, as to whether this means that any individual can do this at his own discretion, or whether he needs permission from the authorities. Scholars are unanimously agreed, however, that there is a distinction to be drawn here in order to determine the status of the hadīth.²⁰

c) Al-Ra'y

Shaltut begins this section by showing that the use of ra'y was a natural and accepted phenomenon right from the earliest period of Islam. After the Prophet's death, life for the Muslims became more complex in many respects. The first Caliphs often consulted the Companions both on the interpretation of the Qur'an and the Sunna, and on matters which were not clearly laid down in the sources; naturally these scholars would try to apply the general spirit or principles of the Qur'an or the Prophet's teachings where specific directions could not be found.²¹

²⁰ Ibid., pp. 501-3.

²¹ Ibid., p. 542.

The use of ra'y was in fact validified and confirmed by the sources themselves, as where the Qur'an enjoins consultation (42:38) and having recourse to "ūlū al-amr" (those in authority) (4:83), and where the Prophet confirmed to those going to the provinces as governors and qādīs that they could use their own judgement where the Qur'an and Sunna were silent.²²

In the early days, however, there was relatively little difference of opinion among mujtahids; all exercised caution in the use of ahādīth, and consulted each other regularly, and nearly all were settled in the Caliphal seat of Medina. The differences of opinion which did arise were usually due to different interpretations of Quranic verses, or differences in accepting and applying ahādīth. Thus from the beginning there was both individual and collective ra'y in an informal sort of way.²³ However, Shaltut believes that it is only in the Caliphates of Abu Bakr and 'Umar that we have a true illustration of the interaction of the sources of law, since after that the Muslims were split into factions, and as a result ra'y was misused.²⁴

Shaltut then turns to the subject of ijmā'. Taking this passage in conjunction with an earlier section in the book, entitled "Ijmā' in relation to certainty in matters of faith", we will see how Shaltut effectively negates the traditional concept

²²Ibid., p. 543.

²³Ibid., p. 543.

²⁴Ibid., p. 544.

of ijmāc by demonstrating its impracticability and inherent illogicality.

Shaltut points out that if ijmāc is to be taken as the unanimous agreement of those culamā who are suitably qualified to exercise ijtihād, then in order to obtain it one must first define and identify those people, and then somehow register them so that they can all be consulted on a given matter. In order for ijmāc to obtain, all these people must be unanimously agreed on the matter. However, given the fact that this matter must be one which is subject to ijtihād in the first place, i.e. differences of opinion concerning it are permissible, the likelihood of their all agreeing on one point of view is negligible. Thus ijmāc in this sense is in fact no more than an unrealisable theoretical concept.²⁵

In fact complete unanimity is only possible on matters about which noone has any doubts, such as the fact that there are four rak'as in the zuhr prayer, in other words on matters which are established in the Qur'an or the Sunna. Therefore the ruling would be based not on ijmāc but on the Qur'an or the Sunna.²⁶

In any case the concept of ijmāc has never been satisfactorily formulated in its details, and there has been a distinct lack of ijmāc on the subject of ijmāc, in all its aspects from the criteria to be applied in deciding whose opinion counts, to whether it is in fact practically applicable, and its legal

²⁵ Ibid., pp. 544-45.

²⁶ Ibid., pp. 68-69.

status if in fact it is accepted and applied.²⁷ Moreover it has been abused in the past, and used as a weapon to support sectarian views or indeed the established schools of law, and to intimidate potential dissidents who are frightened to reveal their own opinions even on matters where differences of opinion are legitimate, for fear of going against "ijmāc" and jeopardising their religious reputations. Thus ijmāc was used to reinforce sectarianism and to close the gate of ijtihād, stifling independent initiative and the spirit of free enquiry.²⁸

Even if one accepts a majority rather than a unanimous ijmāc, this would necessarily be based on considerations of maṣlaḥa, which changes according to circumstances, and so any decision based on ijmāc would be subject to repeal by a later ijmāc, and it would be an agent for change in the law rather than the contrary.²⁹ Indeed, in one place Shaltut equates "ahl al-ijmāc" with "ūlū al-amr".³⁰

As far as individual ijtihād is concerned, it may be exercised by anyone who feels himself suitably qualified, and binds only the one who exercises it; there is no monopoly on ijtihād by any particular person or group of people, since all humans are subject to error. Even the most eminent mujtahids have warned

²⁷Ibid., pp. 65-66.

²⁸Ibid., pp. 67 and 69.

²⁹Ibid., p. 546.

³⁰Ibid., p. 443.

people against accepting their opinions without understanding the reasons behind them.³¹

The different schools of law have grown up as a result of the natural differences in the methods of mujtahids, for there are those who rely more on aḥādīth āḥād than, say, qiyās, or those who pay particular attention to the opinions of the Companions, etc.; but these differences must be regarded as a blessing, since they represent the intellectual freedom granted to Muslims of all ages who desire to exercise that freedom in the interests of the Muslim community, and this is ultimately a means of preserving the Shari'a.³²

d) Summary

The content of the sections on the Qur'an and the Sunna is relatively straightforward and uncontroversial;³³ Shaltut's main contribution here is to have presented information which is normally considered specialised, in a way which is understandable to the ordinary Muslim. Such information is usually included in works on usūl al-figh along with a wealth of technical detail which would be offputting to the lay Muslim.

³¹ Ibid., pp. 546-48.

³² Ibid., pp. 549-50.

³³ However, as we observed in Chapter One, some conservative scholars, including al-Khidr Ḥusayn, objected to the distinction drawn between the Prophet's various actions as regards legislative status.

In the section on ra'y, however, we see a departure from the classical sources of qiyās and ijmāc. Ijmāc is a topic whose various aspects have been much discussed in all ages; in view of the controversial nature of this source, we will pause to see how far Shaltut's views are typical here.

Even in the classical age there were scholars who did not accept ijmāc as a source of law; among them were the Mu'tazilī scholar al-Nazzām (d. ca. 840), who believed that it was impossible to actually ascertain ijmāc for various reasons such as the difficulty of defining a mujtahid and of communications over a wide geographical area, etc.³⁴ Ibn Ḥanbal is said to have expressed a similar view,³⁵ and some scholars, including Ibn Taymiyya and Ibn Ḥazm, believed it to be restricted to the generation of the Companions.³⁶ Some of these scholars also believed that it must in any case be based on textual evidence, in which case Shaltut's objection that the real source would then be the Qur'an or the Sunna holds good.³⁷

The questioning of the validity of the classical concept of ijmāc has been more widespread in recent times, however.³⁸

³⁴Khallāf, op. cit., p. 48.

³⁵Ibid., p. 49.

³⁶Aḥmad Ḥasan, The Doctrine of Ijmāc in Islām, Islamabad: Islamic Research Institute, 1976, p. 226.

³⁷See ibid., p. 226, Khallāf, op. cit., p. 49, and D.M.H. Ḥitū, Al-Wajīz fī Usūl al-Tashrīc al-Islāmī, Beirut: Mu'assasat al-Risāla, 1983, p. 333.

³⁸Aḥmad Ḥasan gives a survey of opinions of selected modern Muslim thinkers in op. cit., pp. 226-56.

Muhammad ʿAbduh recognised that it had never been properly systemised. He did not see ijmāʿ as a rigid and static phenomenon, for this would threaten Islam's adaptability to changing circumstances; he pointed out that some classical authorities like al-Shāfiʿī in his "Risāla", Ibn Ḥanbal and others conceived it as revocable, i.e. subject to repeal by a later ijmāʿ.³⁹

ʿAbduh denied that the authority for ijmāʿ was based upon the hadīth: "My community shall never agree upon an error" or upon the Quranic verse (4:115) which talks about the "way of the believers",⁴⁰ but instead identified it as the consensus of "ūlū al-amr" mentioned in Qur'an 4:59 and 4:83. These were identified as those in authority in all areas of life, including the political, military, commercial, industrial, agricultural, financial etc. - in fact anyone upon whose expertise the interests of the nation depend.⁴¹ While Rashīd Riḍā is in sympathy with ʿAbduh's views on ijmāʿ, he accords a special place to the ijmāʿ of the Companions, which he believes is not subject to modification or repeal.⁴²

The Pakistani scholar Kemal Faruki arrives at not dissimilar conclusions, with perhaps more carefully reasoned arguments; he feels that the concept of "protection from error" (ʿiṣma) upon

³⁹ Tafsīr al-Manār, 5:208-9.

⁴⁰ Ibid., 5:209 and 201.

⁴¹ Ibid., 5:205 and 187.

⁴² Ibid., 7:198.

which the justification for ijmāc is normally based, if left unrestricted, comes dangerously close to shirk by attributing infallibility to other than God.⁴³ He therefore suggests that the "presence" of the community as regards both time and space should be a prerequisite for the authority of ijmāc, i.e. it should be binding only on the community which agreed upon it.⁴⁴ However, this does not mean denying all the previous findings of ijmāc, which would in fact be tantamount to destroying the entire edifice of fiqh.⁴⁵ This can be avoided by acknowledging that each generation has a special authority as regards its own age, being more familiar with its circumstances, and therefore the early communities were better able to judge in matters such as the authenticity of the Quranic text and ahādīth. (He does not however preclude the possibility of modern historical research bringing to light new evidence and modifying previous findings.)⁴⁶

In our opinion, the fact that there are so many different aspects of ijmāc which may be discussed obscures the fact that there is more real agreement among scholars on this issue than may at first appear to be the case. For those who acknowledge the ijmāc of the Companions are in fact acknowledging only an

⁴³Kemal A. Faruki, Ijmāc and the Gate of Ijtihād, Karachi: Gateway Publications, 1954, pp. 14-15.

⁴⁴Ibid., pp. 16, 30 and passim.

⁴⁵Ibid., pp. 21-23.

⁴⁶Ibid., p. 31.

informal sort of ijmāc, since the Companions had no mechanism to obtain absolute unanimity, nor did they ever attempt to do so. Moreover it is acknowledged by Shaltut and others that the degree of unanimity that they did achieve was due only to the fact that there was as yet no sectarian division. No scholar has ever really claimed that there has actually been absolute unanimity on any point, unless that point is clearly laid down in the Qur'an or the Sunna.⁴⁷

In fact it appears that there are two distinct incarnations of ijmāc which are discussed. Firstly, there is the informal inarticulate accumulation of conscience which formed the effective sanctioning base for the whole structure of fiqh, and which of course cannot be dismissed by any Islamic scholar without dire consequences. Secondly, there is the attempt to adapt the concept of ijmāc to meet the needs of the twentieth century; anyone who wishes to interpret it as a forward-looking source of legislation for the modern age must necessarily have in mind an ijmāc that is subject to repeal by a later ijmāc, and moreover a majority rather than a unanimous ijmāc. Thus in the conception of scholars like 'Abduh, Faruki and Shaltut, ijmāc has been transformed from an infallible retrospective authority to a collective form of ijtihād, and may properly be subsumed under the heading of ra'y, as Shaltut has done.⁴⁸ Apart from those matters upon which the very early generations agreed and which

⁴⁷Khallāf, op. cit., p. 50.

⁴⁸See also M. Kerr, Islamic Reform, p. 144.

nobody would presume to question,⁴⁹ classical ijmāc is no longer regarded as an absolute authority in legislation, although in practice many of its findings may be endorsed by modern scholars.

2) "Al-Fatāwā"

This work, which bears the subtitle: "A study of contemporary problems which arise in a Muslim's everyday life", is a collection of fatwās given by Shaltut both before and during his period of office as Shaykh al-Azhar; they had previously been published in newspapers and magazines or broadcast on radio.⁵⁰ In these fatwās Shaltut responds to the questions of Muslims concerning their religion and their everyday life; the great demand for this type of guidance may be inferred from the popularity of the book, which by 1983 had reached its 12th edition.

In his introduction to this work, Shaltut shows how the practice of giving fatwās derives from the Qur'an itself, which contains many legal rulings, some in response to specific questions. He points out that those questions which were addressed to Muhammad by Muslims and answered in the Qur'an

⁴⁹See 'Alī Ḥasab Allāh, Usūl al-Tashrīc, 5th ed., Cairo: Dār al-Ma'ārif bi-Miṣr, 1976, p. 116 for some examples.

⁵⁰Fatawa, p. 15.

concerned useful, practical matters, rather than theoretical or trivial matters.⁵¹

He points out the usefulness of the fatwās of the classical fugahā' as a source of reference, but despite his regard for their work he says:

I have not adhered to any particular madhhab in them (i.e. his fatwās), nor have I restricted myself to the opinion of any one faqīh; (I have relied) only upon the beloved Book and the true Sunna and the basic and eternal principles of Islam...⁵²

He commends the fact that various bodies have now been set up for the express purpose of providing fatwās in the modern age, and that even radio has seen fit to broadcast such edifying material, generally in clear and easily understood language.⁵³

"Al-Fatawa" necessarily covers a very wide range of subject matters, since Muslims may ask about any aspect of their lives, or about matters of creed or the meaning of specific Quranic verses. For ease of reference the fatwās have been subsumed under various headings, and a brief look at these will show the range of topics dealt with: creed and the unseen; acts of worship; customs and innovations (mubtada'āt); oaths and pledges; family law and personal status; financial transactions; food, drink and adornment; and two final sections, entitled "ijtimā'iyāt", which

⁵¹In his fatwās Shaltut often exhorts Muslims to keep to practical issues and to avoid too much questioning on unimportant details - see e.g. Fatawa pp. 133-34, 137, 143, 201, 391 and 394.

⁵²Ibid., p. 15.

⁵³Ibid., pp. 14-15.

contains miscellaneous items such as the possibility of man going to the moon and the theory of evolution, and "mutafarrigāt", which discusses the interpretation of various Quranic words and verses, and may be described as tafsīr.

As the subtitle of the work suggests, some of the issues dealt with are specific to modern-day living, such as test-tube babies, Post Office savings, stocks and shares and communism, while others have always formed a part of fiqh, although even in this case they may have become more significant in recent times, as is the case for example with family planning and suicide. However, the emphasis here will be on Shaltut's methods, i.e. his use of the sources and the character of his legal thought, rather than on the social relevance of his findings, many of which will be pertinent to Chapter Four.

a) The Sources

It is an important feature of Shaltut's fatwās that in them we can often see the use he has made of the sources; by this means he enables us to see the stages by which the ruling is arrived at, and in this his fatwās contrast with many other published collections of fatwās, which may refer only briefly to the sources or simply give a ruling which is to be taken on faith, as it were.

i) Qur'an and Sunna

We have already had occasion to mention the fact that for Shaltut, as for other Muslim scholars who were nurtured on the Qur'an, the Qur'an is so deeply embedded in his psyche that it affects his style and his very way of thinking. The Qur'an for him is not just a "source of law" but the basis of everything; although the Qur'an does not cover all legal areas, it is very rarely that Shaltut cannot produce a Quranic quote which is pertinent to the subject in hand. It is natural that the Qur'an should be quoted and referred to extensively in matters of creed, worship and things like marriage and divorce which are dealt with at some length in the Qur'an; but even under headings like "Birth control" or "Stocks and Shares" the Qur'an is quoted to illustrate the general principles at stake.

In recent times this centrality of the Qur'an, and to a slightly lesser extent the Sunna, in the minds of Muslims, has been supplemented by a specific call for a return to the original sources and a purification of Islamic law from the later accretions which were the result of the activities of the fukahā', and which culminated in the so-called "closing of the gate of ijtihād".⁵⁴ In practice, however, the Qur'an and the Sunna are supplemented by the opinions of the classical fukahā', as can be seen in the work of Muḥammad ʿAbduh and Rashīd Riḍā and in that of Shaltut; the work of these fukahā' is considered a wealth of scholarship upon which to draw, and it is in fact rare

⁵⁴Zakī Badawī, The Reformers of Egypt - A critique of al-Afghani, ʿAbduh and Riḍa, Slough: The Open Press (Muslims Institute Papers No. 2), 1976, p. 37.

that any of them depart totally from the opinions of the madhāhib, but the principle remains, that one is not bound by them as they are the product of human activity and therefore fallible.⁵⁵

We have seen in Chapter Two how the Qur'an itself was a primary source of tafsīr for Shaltut, and how for example when commenting on the muqatta'āt or ghaybiyyāt he restricted himself to what was in the Qur'an. One of the legal issues dealt with in his tafsīr, that of tayammum, provided an example of how the opinions of the madhāhib may be passed over in favour of an interpretation based on the Quranic text alone.⁵⁶

In "Al-Fatawa" we find Shaltut using the techniques of tafsīr, for he often takes into account the Quranic style and language in his rulings. For example, in order to examine the question of whether or not touching (lāmasa) a woman breaks a man's wuḍū',⁵⁷ he looks firstly at the Qur'an's metaphorical usage of comparable verbs such as "massa" and "bāshara" to denote sexual relations; secondly he looks at the context in which the phrase "aw lāmastum al-nisā'" occurs within āyat al-tahāra (5:6), and concludes that the interpretation of lāmasa as sexual relations makes the verse more comprehensive in its legislation since "aw jā'a ahḍun minkum min al-ghā'it" would refer to the use of tayammum in place of wuḍū', while "aw lāmastum al-nisā'" would refer to its use in

⁵⁵ Ibid., pp. 37 and 52.

⁵⁶ Tafsir, pp. 323-28.

⁵⁷ Fatawa, pp. 84-85.

place of ghusl. Moreover, the ending of āyat al-tahāra with the phrase: "Allah does not wish to burden you; He seeks only to purify you and to perfect His favour to you, so that you may give thanks", provides a further reason why one should choose the least arduous of the two possibilities.

He again refers to Quranic context in the question of whether or not animals are to be called to reckoning on the Day of Judgement, pointing out that the phrase "wa-idhā al-wuhūsh hushirat" (81:5) occurs in the context of a description of the disturbance of the natural order at the end of the world, and is thus simply a physical phenomenon like the others.⁵⁸

In certain issues, a careful examination of the Quranic text is vital, as for example in the question of "the raising up of Jesus" (rafʿ ʿIsā). Shaltut strongly objects to those who insist on making this matter one of essential creed, i.e. accusing of kufr those who do not believe that Jesus has been physically raised up to God and is still alive and waiting for the end of the world when he will descend, since the Quranic verses in question are mutashābih;⁵⁹ in fact he makes quite a strong case for the contrary belief. He looks at the Quranic usage of the word rafʿ in the figurative sense of raising in rank and dignity (although ignoring the fact that in other places it is not followed by ilayya or ilayhi, meaning to God). He also looks at the context in which it occurs in (3:55), preceding the phrase:

⁵⁸ Ibid., p. 41.

⁵⁹ Ibid., p. 67.

"...and We will purify you from those who disbelieve...", which Shaltut feels strengthens the case for an increase in rank and dignity.⁶⁰ Again, he looks at the Quranic usage of the verb tawaffā, which is generally to denote death in the ordinary sense of the word.⁶¹

Contextual considerations are important for the interpretation of the phrase "innahu la-cilmun li'l-sā'a" (43:61), where Shaltut argues that the following words, "fa-lā tamtarunna bi-hā", show that these words are being used to persuade a dubious audience, and therefore the pronoun in the first phrase cannot refer to the appearance of Jesus himself at the end of the world, since this in itself is an object of doubt and would not serve to persuade the doubters.⁶²

Shaltut again refers closely to the Quranic text in the question of polygamy. He is indignant at those who use the exhortation to justice among co-wives as a sort of "catch-22" in order to ban polygamy outright, for in this they are tampering with God's verses, which give explicit permission to marry two, three or four wives(4:3).⁶³ In order to determine the relationship between the verse which asks men to confine themselves to one wife if they fear they cannot observe justice between their wives (4:3), and the verse which states that they

⁶⁰Ibid., p. 63.

⁶¹Ibid., pp. 60-61.

⁶²Ibid., pp. 75-76.

⁶³Ibid., p. 182.

will not be able to deal equally with their wives (4:129), Shaltut observes the context of the latter verse, which occurs in a passage beginning "They consult you concerning women", suggesting that the question of justice between wives was one of the issues which was worrying the Companions, and that this verse was sent down in response to this worry, as a reassurance that complete impartiality is impossible and therefore not to be expected.⁶⁴

Arguing against those who believe that polygamy is a kind of license conditional upon, for example, a wife's sterility or illness, Shaltut points out that the Qur'anic phrase which permits polygamy gives no hint of conditionality, and contrasts its style here with its style when it allows things which are generally disapproved of or ḥarām, and only permitted under duress. He feels that the Qur'an would have specifically stated the conditions of sterility and illness if this was meant.⁶⁵

It is to be expected that in matters relating to creed or to ghaybiyyāt, the Qur'an should be closely referred to, since Shaltut repeatedly affirms the belief that "as regards matters of the unseen, (one should) confine oneself to the texts", and this should be without any forced interpretations of those texts ("dūna sarf al-lafz 'an ma'nāhā").⁶⁶ In this manner, like

⁶⁴Ibid., p. 183.

⁶⁵Ibid., p. 186; the Qur'anic mode of expression is again adduced as evidence in the question of conditional repudiation (al-talāq al-mu'allaq), p. 300.

⁶⁶Ibid., p. 56; see also pp. 39 and 20.

Muhammad ʿAbduh and Rashīd Ridā before him, he desires to keep the essential creed to an absolute minimum, thus avoiding as far as possible dogmatic or sectarian disputes, and seeking to eradicate the plethora of superstitions which have grown up around some of these ghaybiyyāt, laying people open to exploitation.⁶⁷

Discussing the theory of evolution, Shaltut feels that the Qur'an itself is sufficient to confute this theory, since it explicitly refers to the creation of Adam from raw materials. He feels that the creation of man is one of the ghaybiyyāt about which only the text can tell us, and in which there is no room for experiment or research.⁶⁸

On several occasions when weighing up particular issues Shaltut refers to the general style of the Qur'an, for example to illustrate the importance of such things as the injunctions relating to inheritance, the duty of fasting and the "Night of Power", and the gravity of such crimes as murder and drinking alcohol.⁶⁹ Although such stylistic evidence might not constitute a ruling on its own, Shaltut uses it to support his case and to lend emphasis to his exhortations.

⁶⁷Ibid., pp. 27 and 30-31.

⁶⁸Ibid., pp. 402-3. This would appear to be the mainstream Sunnī view on the subject; in fact Shaltut was replying here to the question of whether "men of religion" refuted the theory of evolution on the basis of textual evidence or out of narrow-mindedness.

⁶⁹See ibid., pp. 33-37, 138-39, 154, 417 and 362-63 respectively.

As regards the Sunna, the frequency with which Shaltut quotes ahādīth makes it clear that he sets great store by it. He uses it in all three of its functions in relation to the Qur'an: mu'akkida (confirming what is in the Qur'an), mubayyina (clarifying or elaborating on what is in the Qur'an), and munshi'a (as an independent source, legislating for what is not mentioned in the Qur'an).⁷⁰ An example of the first is where he cites the fact that there are genuine ahādīth which show that touching women does not break the wuḍū', although he has already drawn this conclusion from the Qur'an itself.⁷¹ Secondly, as a sunna mubayyina, he quotes: "That which is forbidden (for purposes of marriage) as regards blood relationship is also forbidden as regards riḍā'", which explains the Quranic phrase: "wa-ummāhatukum allatī arda^cnākum wa-akhawātukum min al-radā^ca" (4:23) as comprising all the relationships previously mentioned in the same verse.⁷² Thirdly, the ḥurma (illegality) of tahlīl (a legal fiction invented to remove the impediment of a triple repudiation to remarriage), which is not specifically mentioned in the Qur'an, is based on ahādīth in which the Prophet condemns those who participate in it.⁷³

It is evident that once Shaltut believes in the genuineness of a particular ḥadīth, he feels bound by it, even if it is not

⁷⁰See Khallāf, op. cit., pp. 39-40.

⁷¹Fatawa, p. 85.

⁷²Ibid., pp. 282-83.

⁷³Ibid., pp. 316-17.

wholly concordant with his general emphasis on yusr (lenience). For example, the aforementioned hadīth concerning radā'a obliges him to disappoint some of those who send him questions in this regard.⁷⁴ In the case of two hadīths to the effect that the omission of prayer entails kufur, Shaltut feels obliged to take these into consideration despite his reluctance to brand men as kāfirs for matters other than those of essential creed (note the distinction drawn between he who denies the obligation to pray and he who omits the prayer while acknowledging its obligatory nature). He gets around this by interpreting the hadīths as merely a strong reprimand, intended to act as a deterrent rather than being literally true.⁷⁵ On occasion a liberal interpretation of a hadīth is made possible by ascertaining the intentions which lie behind it, as where Shaltut observes that since the intention behind the hadīth which prescribes washing a dish which has been licked by a dog seven times, one with earth, was simply to ensure cleanliness, then one may use any effective cleaning agent, and the number seven need not be taken literally.⁷⁶

Since Shaltut's fatwās are intended to be of use to ordinary Muslims and are not addressed to other fugahā', it is very rare for him to indulge in the critical evaluation of ahādīth in the text of his fatwās; he only does this when forced to defend

⁷⁴For example the questioner in ibid., p. 287 will not be allowed to marry her cousin.

⁷⁵Ibid., p. 162; he does the same with a hadīth which says: "Man ḥalafa bi-ghayr Allāh, fa-qad kafara", p. 305.

⁷⁶Ibid., pp. 86-87.

himself on a particularly emotive and polemical issue, such as that of the raising up of Jesus, where he uses the weapons of jarh wa-ta^cdīl (the science which rejects or accepts ahādīth according to accepted criteria) to reject the ahādīth used by his opponents in support of their argument.⁷⁷

In his fatwās Shaltut has constant reference to the Qur'an and the Sunna; he is generally consistent with the views put forward in his scheme of the sources of law, with perhaps minor exceptions, such as where he adduces the hadīth mentioning the harmfulness of the milk of a pregnant woman as evidence to support the couple's right to actively prevent pregnancy during the period of suckling.⁷⁸ This would appear to be in contradiction with the distinction which Shaltut draws between the legislative and non-legislative functions of the Prophet, for he is acknowledged to have had no special expertise in such matters as this.

ii) Al-ijmā^c

Although Shaltut effectively negates the value of classical ijmā^c as a source of law, he uses the term both in its nominal and verbal forms in several places in his fatwās. He even goes so far as to describe it as the third source of law.⁷⁹ However, it is noteworthy that he virtually never uses it on its own as an

⁷⁷Ibid., pp. 61-62.

⁷⁸Ibid., p. 297.

⁷⁹Ibid., p. 361.

independent source in the proper sense of the word; in nearly every case where he cites ijmāc, the principle in question is in fact directly based on the Qur'an or the Sunna, so that, as Shaltut points out in his treatise on the sources of law, the actual source is in reality the Qur'an or the Sunna.⁸⁰ This is the case with the ban on selling wine, the fact that the wine drinker should receive worldly punishment, and the fact that women are not obliged to attend the Friday prayers, all of which are based on the Sunna.⁸¹ Similarly, the fact that a secret marriage performed without witnesses is null and void, and that a Muslim woman is not permitted to marry a non-Muslim man may be inferred from the Qur'an.⁸²

Shaltut also uses the term with regard to matters which are in any case virtually unquestionable, such as the fact that he who denies the obligatory nature of fasting during Ramadan may not be considered a Muslim, and that he who omits the obligatory acts of worship commits a grave sin.⁸³ (In this last case ijmāc is cited as an authority alongside "al-dalā'il al-sarīha" - explicit authoritative evidence).

Even in the instance where he describes ijmāc as the third source of law, he is only using it to support what is established

⁸⁰There is an exception to this, however, where Shaltut cites ijmāc as the sole authority for talion in cases of injury - see ʿAqida wa-Shariʿa, p. 386.

⁸¹See ibid., pp. 365, 366 and 93 respectively.

⁸²Ibid., pp. 268 and 276-77 respectively.

⁸³Ibid., pp. 140 and 161 respectively.

in the Qur'an and the Sunna with regard to the illegality of drinking wine, so one is inclined to believe that his use of the term here is primarily for effect; in fact he proceeds to clarify his position in the same passage:

If the ruling is found in the Qur'an, then that alone is its source, and if it is found in the Sunna, then that alone is its source, and if it is not found in either the Qur'an or the Sunna, then the fugahā', who are cognisant of the general principles of legislation, and of the public interest, must apply their mental faculties (to the problem), and whatever they agree upon, then that and only that is the ruling...⁸⁴

Since Shaltut is talking in the present tense, it is evident that he is not talking of classical ijmā' but of ijmā' as a changing phenomenon, and one suspects that he envisages broad agreement rather than absolute unanimity, this being virtually impossible by Shaltut's own admission.⁸⁵ Thus despite Shaltut's referring to ijmā' as a third source of law here, he does not contradict the views put forward in his section entitled: "Masādir al-Tashrī'".

When Shaltut states that there is ijmā' to the effect that taḥlīl is ḥarām,⁸⁶ one might be tempted to say that this is technically untrue, since taḥlīl as a legal fiction has been sanctioned by ʿulamā' from the Hanafī, Mālikī and Shāfiʿī schools down the ages.⁸⁷ One may assume, however, that Shaltut feels so strongly about the serious nature of the marriage contract and

⁸⁴ Ibid., p. 361.

⁸⁵ ʿAqida wa-Shariʿa, p. 545.

⁸⁶ Fatawa, p. 316.

⁸⁷ Joseph Schacht, An Introduction to Islamic Law, p. 82.

the divorce laws as laid down in the Qur'an, that any faqīh who would treat such things lightly does not deserve the name, and therefore his opinion does not count. While it could be a dangerous precedent to claim ijmā' on the grounds that anyone who disagreed must be misguided, Shaltut has a strong case here because the hiyal (legal fictions) contradict the spirit if not the letter of the law, and are widely acknowledged to be abuses of the Shari'a.

iii) Al-ra'y

There have been numerous attempts in the history of uṣūl to define the exact sphere of operation of ra'y in Islamic law, the most notable being the attempt on the part of the classical fugahā' to confine the ijtihād of the faqīh to qiyās, i.e. analogical deduction based directly on the sources. However, human value judgements have never been wholly excluded from the juristic process; indeed, a faqīh uses ijtihād at all levels - in the very choice of which texts to take into consideration, and which ahādīth he believes to be genuine, as well as in his interpretation of these texts. Moreover situations do arise for which there is no strict analogy in the sources, and some of the classical jurists felt bound to resort to istiṣlāh ("consideration of the public interest") and istihsān ("juristic preference") in order to accommodate the concept of the public interest or utility (maṣlaḥa). Thus human value judgements were guaranteed a place in the scheme of law. However, divergence has

always been contained to some extent by the existence of texts which are considered muḥkam (unambiguous), and therefore not subject to ijtihād, providing a central core upon which all faqīhs are agreed, and by the fact that the fuqahā' consider themselves bound by the principles and spirit inherent in the Shari'a.

Although ra'y is not subject to strict categorisation, Shaltut's activities in this regard fall mainly into the following areas: the application of analogy and of the general principles of the Shari'a, considerations of maṣlahā, and the use of empirical evidence.

Analogy and the principles of the Shari'a

We have avoided using the technical term qiyās because Shaltut himself does not use it, probably in order to avoid confusion between the simple concept of analogy and qiyās as one of the four classical sources of law. The principle of analogy, however, is an important one; Shaltut sometimes refers to its validity without naming it, as when he maintains that from the unlawfulness of wine (khamr) we can assume that any substance which intoxicates is also unlawful; since the reason behind the forbidding of wine (manāt al-tahrīm) is its harmful effects, then other substances with the same effects are also forbidden. He continues:

...this is one of the natural methods of legislation, which has been known to man ever since he has comprehended the characteristics of things and compared them to each other; Islam confirmed this as a method of legislation, and thus was able to use the status (ḥukm) of things

which were known to establish the status of other things which were not (previously) known, by virtue of the fact that they possessed the same characteristics...⁸⁸

Shaltut's method of analogy differs slightly from the classical one, where the analogy must be based on the cilla (effective cause), which in the case of the prohibition of wine is the intoxication rather than the harmful effects thereof, which, strictly speaking, constitute the hikma (the underlying reason or wisdom behind rulings), although the dividing line between the two is a fine one.

In the case of the licence to shorten the prayer or break the fast when travelling, the dividing line is clearer. Shaltut does not take the act of travelling itself, or the length of the journey, to be the point at issue. He feels that in the light of the availability of modern methods of travel, it is inappropriate to decide the matter according to distance. The essential point is whether or not the journey involves hardship (mashagga).⁸⁹ Thus he is observing the hikma rather than the cilla, which is the journey itself.⁹⁰ This blurring of the distinction between the cilla and the hikma arises from the modern emphasis on making Islamic legal precepts and the reasons behind them clear and

⁸⁸Fatawa, p. 373.

⁸⁹Tafsir, pp. 551-52.

⁹⁰Compare ^cAbd al-Hamīd Mutawallī, Mabādi' al-Hukm fī'l-Islām, Cairo: Dār al-Ma'ārif, 1966, p. 239, fn. 2, for an example of the formalist view which observes only the cilla.

understandable.⁹¹ This would appear to be quite in keeping with Shaltut's emphasis on the practical rather than the theoretical, and his reliance on his own moral instincts or even common sense.

A kind of loose analogy is drawn when Shaltut expresses the hope that, since the Prophet permitted someone to perform the haji on behalf of their deceased father without the express request of the latter, then perhaps it would be acceptable for a man's heirs to pay his outstanding zakāh, kaffārāt (expiation) etc., and thereby eliminate any otherworldly punishment he may have incurred.⁹² However, in this case Shaltut is expressing a pious hope rather than a firm conviction. Elsewhere he draws a kind of analogy between oaths and the engagement agreement (al-khitba), i.e. if one may even break an oath, which is normally considered binding, for a valid reason, then it is even more appropriate that an engagement, which is not a binding contract, should be broken for a valid reason.⁹³ Again, he draws an analogy between adultery and artificial insemination where the donor is not the husband, maintaining that their essence and result are the same, but he refrains from making the analogy complete (i.e. according them the same status) because of "a deficiency (guṣūr) in the actual form of the (latter) crime".⁹⁴

⁹¹Kerr, op.cit., p. 67.

⁹²Fatawa, p. 342.

⁹³Ibid., p. 260.

⁹⁴Ibid., p. 328.

We often find an even broader type of analogy in Shaltut's *fatwās*, where the analogy is based on a hikma which may not be so obvious as that of the prohibition of drinking alcohol. For example, he maintains that since the reason why Muslim women are not allowed to marry non-Muslim men is because the man and therefore his culture is usually dominant, this prohibition may be extended to Muslim men also in cases where the non-Muslim woman's culture is allowed to prevail.⁹⁵ Again, just as debtors are deprived of the right of disposal of their property in order to protect the rights of their creditors, so should fathers who attempt to abuse the inheritance laws and deprive certain heirs of their rightful shares lose the right of disposal of their property, in order to protect the rights of those heirs.⁹⁶

It is only a short step from here to using the general principles of the Shari'a as a criterion. In fact Shaltut places the two criteria together - the effective causes of rulings (ʿilal al-ahkām) and the principles of legislation - as the two factors which have enabled Islam to adapt to new circumstances and evaluate the hill or hurma (lawfulness or unlawfulness) of any new things or innovations with which Muslims may be faced. He says this when discussing the subject of smoking, which he

⁹⁵ Ibid., pp. 279-80; Shaltut is thinking of European women in particular.

⁹⁶ Ibid., p. 340.

regards as ḥarām on the grounds that Islam forbids anything which dissipates wealth or is detrimental to one's health.⁹⁷

Shaltut's belief that profits from cooperatives, Post Office savings and stocks and shares are all lawful⁹⁸ is necessarily based on the general principles of the Shari'a in view of the fact that such things did not exist in the early ages of Islam; in each case the key issue is the fact that there is no exploitation of those in need - on the contrary, the agreement in question is entered into willingly by both parties, and generally benefits all concerned and is therefore in accordance with the spirit of the Shari'a.

Most of the principles cited revolve around the prevention of harm and the promotion of benefit; the single most important principle is that of yusr, or ease, which often influences Shaltut in his legal decisions, sometimes leading to surprising compromises. For example, the burden of guilt or sin is lifted from the one who borrows on interest because of his need,⁹⁹ and men whose work entails loading wine off and onto ships do not come under the prophetic curse which embraces the carrier of wine, because of the fact that they do not intend to abet anyone in sin but are simply doing it to earn their living.¹⁰⁰ In view of the fact that to prohibit praying in mosques with tombs might

⁹⁷Ibid., pp. 384-85.

⁹⁸Ibid., pp. 348-55.

⁹⁹Ibid., p. 354.

¹⁰⁰Ibid., pp. 378-79.

discourage people from praying, Shaltut simply recommends that the tomb should not be in view of those who pray.¹⁰¹

Other principles referred to include the principle of safeguarding bodily health,¹⁰² and the principles of hifz al-masālih (the preservation of interests), daf' al-madārr (averting harm), sadd dharā'ic al-fasād (closing the avenues which lead to evil) and al-darar madfū' bi-qadr al-imkān (harm is to be averted to the greatest extent possible);¹⁰³ all of these principles have essentially the same purpose as the principle of maṣlaḥa, which we will shortly discuss.

On the subject of the permissibility of taking medicine containing muharramāt (forbidden substances), Shaltut refers to the principle al-darūrāt tubīḥu al-mahzūrāt (duress renders forbidden things permissible);¹⁰⁴ and on the subject of circumcision he refers to the principle that one may inflict injury if it brings a greater good, using this as the main evidence for the sunniyya or possibly wujūb of circumcision, since there is no text which he recognises, that refers to the legal status of circumcision.¹⁰⁵

Al-maṣlaḥa

¹⁰¹ Ibid., p. 105; for other examples where the principle of yusr is referred to, see pp. 85, 355 and 379.

¹⁰² Ibid., pp. 166 and 384 and ʿAqida wa-Shariʿa, p. 209.

¹⁰³ Fatawa, pp. 372-73 and 297.

¹⁰⁴ Ibid., p. 382.

¹⁰⁵ Ibid., pp. 332-33.

The principle of maṣlaḥa has attracted particular attention in the modern age, although we should not forget that it was recognised by many medieval jurists, some of whom, such as al-Ghazālī, Ibn Taymiyya and Najm al-Dīn al-Tūfī, laid particular stress on it.¹⁰⁶ Shaltut considers it to be an important factor in Islamic law, something which any ijmāc or ijtihād must take into account.¹⁰⁷ For him, this is a natural principle arising from the need of the law to adapt to changing conditions, but he does not use technical terms such as maṣāliḥ mursala (textually unrevealed benefits) or the Mālikī term istislāḥ or the Ḥanafī istiḥsān. The medieval jurists may have felt the need for such terms and definitions in order to defend their use of such things which may not have been strictly within the order of things as laid down by al-Shāfi'ī, but in the modern age, the need for such a principle is universally recognised, for without it Islamic law would be unable to meet the challenges it faces in the twentieth century.

Thus there is now no need for any narrow definition of such a concept. In Shaltut's usage, it is rather the general concept of benefit, as embodied in the legal principles of the last section, and in fact the word "maṣlaḥa" occurs in some of the passages we

¹⁰⁶Kerr, op. cit., pp. 55-6; while we agree with Kerr that this concept has been used to emphasise the dynamism and humanism of the Shari'a, the statement that modernists have "seized upon" it is perhaps unfair; after all it is a perfectly natural principle of legislation, and the religion of Islam is unquestionably intended to promote man's welfare.

¹⁰⁷See Min Tawjihāt al-Islam, p. 74, cāqida wa-Shari'a, p. 546, Min Huda al-Qur'an, p. 249, and Fatawa, pp. 44-45.

referred to there.¹⁰⁸ Even where the word is not used it is often implied; for example, brokerage is considered licit because it provides a useful service, i.e. it is in the public interest.¹⁰⁹ Perhaps the main difference between maslaha and the legal principles for the prevention of harm and the promotion of benefit is that maslaha usually concerns the umma as a whole,¹¹⁰ whereas the principles more often involve the interests of individuals.

Empirical evidence

Since nature is part of God's creation, and the Qur'an repeatedly calls Muslims to contemplate and learn from natural phenomena, it is considered that law can be revealed implicitly in nature, and no rigid distinction need be drawn between divine and natural law. Shaltut is therefore not averse to appealing to such things as medical evidence, or the natural order of things, or even to human nature, although these things are usually cited in a corroborative capacity rather than as sole evidence for a ruling.

In the case of medical evidence, this is usually concerning matters which are widely accepted, such as the dangers of alcoholism, or the fact that the man's sperm possesses the

¹⁰⁸Fatawa, pp. 355 and 297.

¹⁰⁹Ibid., p. 356.

¹¹⁰In addition to the above examples see Min Tawjihat al-Islam, pp. 74, 563 and 565.

attributes of life.¹¹¹ In such cases it would not be deemed necessary to give an authority, but where he claims more controversially that the uncircumcised man is more liable to cancer and "other fatal diseases", or that it has been "medically proven" that carrion, blood and pork are harmful to one's health, he would perhaps have done better to give some medical authority for this.¹¹²

Shaltut recognises natural laws when he maintains that those who use the Qur'an as a charm and a cure for ills are ignoring the laws of cause and effect, and thereby abusing the Book, which was sent down to heal spiritual ailments rather than physical ones, and neglecting the true means to bodily health.¹¹³

Shaltut feels that since it is God who has ordained the natural order of things, this should not be disturbed without good reason; since it is in the nature of life to continually grow and expand, and we have been given the ability to procreate, mass birth control imposed by governments goes against that nature and is therefore unacceptable.¹¹⁴ Even on the individual level, the natural processes of fertility and procreation should not be disturbed without good reason.¹¹⁵

¹¹¹ Fatawa, pp. 371-72 and 291 respectively.

¹¹² Ibid., pp. 333 and 386 respectively.

¹¹³ Ibid., pp. 207-8.

¹¹⁴ Ibid., p. 295.

¹¹⁵ Agida wa-Shari'a, p. 207.

We will observe in Chapter Four Shaltut's concept of the essential dignity and goodness of human nature; in view of the complex nature of human relations as opposed to those of animals, and the way we are grouped (on the basis of marriage) into families, tribes and communities, he considers artificial insemination by donor to be derogatory to man's dignity.¹¹⁶

Since man instinctively knows what is right and good, the very fact that something is surrounded by secrecy or feelings of shame, as in the case of tahllīl, is enough to indicate that it is harām; similarly with secret marriage, which is a source of anxiety and fear for the couple rather than of mercy and peace as marriage is meant to be.¹¹⁷ The pleasure which man takes in listening to music can only be an innocent one, since it is part of human nature to be attracted to pleasant things; therefore, music cannot be harām in itself.¹¹⁸ Ultimately, it is human nature which bears witness to the sacredness of human life and the gravity of the crime of homicide.¹¹⁹

¹¹⁶Fatawa, p. 327.

¹¹⁷Ibid., pp. 317 and 269-70 respectively.

¹¹⁸Ibid., p. 410; Shaltut it seems would prefer to rely here solely on the dictates of instinct and common sense, but reluctantly gives some account of the jurists' opinions in order to satisfy the reader (pp. 412-14). This approach contrasts strongly with that of Rashīd Riḍā, who lists at great length the aḥādīth for and against listening to music and the various opinions on the subject - see his Fatāwā, Beirut: Dār al-Kitāb al-Jadīd, 1970-, 2:470-93.

¹¹⁹Fatawa, p. 416.

b) The Characteristics of Shaltut's Fatwāsi) Al-wa'z

Alongside the scholarly content, there is a large sermonising element in Shaltut's fatwās, especially when we compare them with other collections of fatwās. Some of these simply provide the various opinions of the madhāhib or leading classical jurists without attempting to evaluate those opinions or choose between them.¹²⁰ Even Rashīd Ridā's fatwās are generally terse in style. The closest thing in style to Shaltut's fatwās is not to be found in fatwā collections but in less specialised works on Islam, or in articles in Majallat al-Azhar, for example. In fact this style is no doubt partly due to Shaltut's position within the Azhar; having a prominent public role, he would be expected to take every opportunity to exhort people to good and dissuade them from evil. In any case it is common in Islam, where scholarship and piety go hand in hand, to find a certain amount of wa'z even in specialist works.¹²¹

It is this strong wa'z element which accounts for the similarity in style between Shaltut's fatwās, tafsīr and general religious writings. It is part of the effort to reach a wider audience, not just on general aspects of Islam but in areas which are often considered specialised, like fiqh and tafsīr. His legal

¹²⁰Cf. e.g. the collection of fatwās by H.M. Makhlūf, former Muftī of "al-Diyār al-Miṣriyya", entitled Fatāwā Shar'iyya.

¹²¹See e.g. 'Alī Ḥasab Allāh, op. cit., p. 39, where, discussing the Qur'an as a source of legislation the author exhorts anyone who wishes to profit from the Qur'an to "make it his intimate companion" etc.

writings are firmly placed in their moral context, and in this Shaltut has the Qur'an as a precedent, which as he points out does not neglect the element of wa^cz in its legal rulings.¹²²

Shaltut's sermonising tendencies are most in evidence when he is discussing matters about which he feels strongly, such as superstitions and bida^c. We see this on the subjects of tashā'um (taking things as evil omens), the saints' birthdays, abuses of the Qur'an, the belief in corpses that fly with their biers, certain funereal traditions, the superstition about marriage in the month of Muḥarram, and so on.¹²³ Another area which provokes this tendency is the abuse of the law, as in the questions of tahlīl and fathers' abuse of the inheritance laws.¹²⁴

In several of these passages we can clearly see his use of emotive language or vivid description, and of rhetorical devices to achieve greater effect. In the last-mentioned passage, he talks about the importance of the father-son relationship for society as a whole,¹²⁵ and uses strong language to condemn those who deprive their sons of their rightful inheritance: "...and by this immoral action they corrupt their families and destroy their houses, because of a vain desire or an immoral whim..."¹²⁶ In

¹²²c Aqida wa-Shari^ca, pp. 486 and 196.

¹²³See Fatawa, pp. 29-32, 193-94, 207-9, 200-1, 214 and 262ff. respectively.

¹²⁴Ibid., pp. 301-3 and 336-41 respectively.

¹²⁵Ibid., p. 336

¹²⁶Ibid., p. 338.

addition to this, his fourfold repetition of the phrase "taṣarruf sayyi' mahzūr"¹²⁷ and his portrayal of the plight of the helpless daughter who has been disinherited, or the son who sees his brother or even a more distant relative receive his own rightful inheritance,¹²⁸ illustrate the ways in which Shaltut lends emphasis to his point and expresses the strength of his feelings.

Again, on the subject of the birthdays of the saints (mawālīd al-mashāyikh), he gives a vivid description of the undignified hustle and bustle surrounding the departure for these occasions,¹²⁹ and of the characters one might find at such festive gatherings:

...you may even see parties of gamblers nearby parties of alcoholics and drug addicts (mudminūn), and next to these might be those performing the dhikr, and various dissolute characters, and dancers male and female, and among all these will rove beggars and pickpockets.¹³⁰

It seems that Shaltut occasionally allows himself to be carried away by the strength of his feelings into the realm of exaggeration, as where he laments the abuse of the permission to marry the women from ahl al-kitāb:

Often has a Christian or Jewish wife, living in a Muslim country and enjoying the benefits of life there under the auspices of a naive Muslim husband, served her own country or government,

¹²⁷ Ibid., p. 339.

¹²⁸ Ibid., p. 341.

¹²⁹ Ibid., p. 193.

¹³⁰ Ibid., p. 194; in order to fully appreciate his style the original Arabic should be consulted, as he names each category in the masculine and the feminine gender.

deceiving her husband and using him as a means to inflict disaster on his country and to give her own country a foothold in it.¹³¹

Sometimes he will enter into a declamatory passage (which often forms a digression from the subject in hand) quite consciously and deliberately, under an indicative heading such as "Nasīha li'l-azwāj" or "Kalimatān", or preface a passage with a phrase such as "ayyuhā'l-muslimūn";¹³² at other times the transition may be more abrupt, as where he breaks off from his scholarly discussion on the question of raf' c̄Isā to lament the reliance upon weak ahādīth about Jesus on the part of certain unscrupulous scholars.¹³³

In the course of his fatwās Shaltut often exhorts not only Muslims in general but those in authority to take action on certain matters, for example to put an end to the abuse of the inheritance laws or the abuses of the saints' birthdays, or to ban smoking.¹³⁴ This kind of direct exhortation is more characteristic of sermons and oratory than of fatwās; one should not forget that some of these fatwās were originally broadcast on radio.

Another respect in which Shaltut's fatwās sometimes resemble sermons is the tendency to dwell on general aspects of the Shari'a or of Islam; this can be seen from a glance through his

¹³¹ Ibid., p. 280.

¹³² See ibid., pp. 298, 243 and 299 respectively.

¹³³ Ibid., pp. 77-78, beginning: "Wa-innahu la-yu'sifuni..."

¹³⁴ Ibid., pp. 340-41, 194 and 385 respectively.

section on "Blameworthy innovation (al-ibtidāʿ al-madhūm) in Islam", where the subheadings include "The essential elements of worship", "The word bidʿa in our society", "The universal human identity of Muslims", and "The unique individual identity of Muslims".¹³⁵ Elsewhere we find such headings as "Islam's concern with cleanliness (tahāra)", "The importance of the jumʿa prayer in Islam", and several headings beginning "Al-hikma fī..." or "Hikma...", which treat of such things as prostration, the prescription of expiation in general or of fasting as an expiation, and sadaqat al-fitr.¹³⁶ As we indicated in Chapter Two, Shaltut considers drawing attention to the reasons behind things and the general nature of the Shariʿa to be an essential part of daʿwa.

Shaltut's idealism finds ample expression in the mode of waʿz, for the preacher must always exhort people to aim high; and if at times Shaltut seems idealist to the point of being simplistic, this is part of his policy of expecting the best of people, so that they may live up to one's expectations rather than down to them. Some remarks may sound naive or platitudinous, but we have no reason to doubt his sincerity.¹³⁷

Perhaps the feature of his fatwās which is most of all reminiscent of the sermon is the ending, for there, more often

¹³⁵Ibid., pp. 178-87.

¹³⁶Ibid., pp. 86, 96, 110, 249, 151 and 155 respectively.

¹³⁷See, e.g., ʿAgida wa-Shariʿa, p. 214: "wa ʿalā ʿuqalā' al-umma...", and p. 216: "wa-inni la-arju an narā qarīban...", and Fatawa, p. 355: "Wa-law anna al-umam al-Islāmiyya..."

than not, we find a sort of post-script, often introduced by words like "ammā ba'adu", whether it be a pious hope,¹³⁸ an admonition,¹³⁹ a simple summary¹⁴⁰ or a reminder of the most important points in the fatwā,¹⁴¹ or a mixture of two or more of these.¹⁴²

ii) Observance of the inner reality

Islamic law does not limit itself to external forms, and Shaltut does not fail to point out wherever necessary the importance of intentions. Reformers before him stressed the importance of the right spirit and intention in acts of worship, for example, where the mere observance of external forms is not considered sufficient. Shaltut hints at the legal import of this when he states that he who fasts but omits the prayer cannot be fasting for the right reason, i.e. in obedience to God's command, for if he obeyed God he would perform the prayer.¹⁴³

It has always been the case that the legal status of a particular action can vary according to circumstances or the intention behind it. Even the acts of worship can be haram under

¹³⁸E.g. Fatawa, pp. 186-87.

¹³⁹E.g. ibid., pp. 27, 201 and 434.

¹⁴⁰E.g. ibid., p. 65.

¹⁴¹E.g. ibid., pp. 20 and 163.

¹⁴²E.g. ibid., pp. 35-36.

¹⁴³Ibid., p. 159.

certain circumstances, for example where the performance of them represents a threat to health or life.¹⁴⁴

In Shaltut's "Fatawa", we read that a woman's jewellery is subject to zakāh if it represents an investment, and this is the case even if she wears it to avoid losing it, whereas if she wears it as an adornment it is not subject to zakāh;¹⁴⁵ the visiting of graves, normally halāl, becomes harām if the intention is to indulge or increase one's sorrow;¹⁴⁶ and the hilla or hurma of kissing the hands of 'ulamā' and others depends on the motive behind it.¹⁴⁷ In the case of land which has been pledged, the creditor may exploit such land only if permission was freely given by the debtor, with no kind of pressure whatsoever.¹⁴⁸ We should point out that none of these opinions represents a radical departure from classical fiqh or a concession to the modern age.

Such legislation depends to a large extent on the integrity of the individual, who alone knows his own intentions, for a divine law appeals above all to people's consciences and does not limit itself to external behaviour, or acknowledge any barrier between law and morality. For Shaltut, this is part of the Shari'a's wholeness and perfection, for a law which does not take people's

¹⁴⁴Ibid., p. 384.

¹⁴⁵Ibid., p. 120.

¹⁴⁶Ibid., p. 221.

¹⁴⁷Ibid., pp. 224-26.

¹⁴⁸Ibid., pp. 345-46.

consciences into account is a cynical law which provokes a cynical response.¹⁴⁹

iii) Shaltut as scholar and jurist

In "Al-Fatawa", alongside the preacher, we find the scholar and jurist, for although Shaltut is writing for an audience of lay-Muslims and generally avoids the use of technical terms and concepts, it is inevitable that his training as a faqīh should be apparent in his fatwās.

This training becomes most evident in his more polemical writings, as for example in his discussion of raf' c̄ Isā, where he has to reply to his opponents' arguments. We have already described some of his methods here, such as jarh wa-ta'dīl and close textual analysis. He also has recourse to the science of uṣūl, discussing for example the different kinds of dalīl (evidence), in order to clarify those sources upon which creed depends,¹⁵⁰ or when he discusses the probative validity (hujjiyya) of ijmā' c̄ in relation to matters of the unseen.¹⁵¹ In order to refute the idea that the pronoun in "innahu la-c̄ilmun li'l-sā'a" (Qur'an 43:61) refers to the descent of Jesus at the

¹⁴⁹Min Tawjihāt al-Islam, p. 15.

¹⁵⁰Fatawa, pp. 66-67; he again refers to the necessity of "qat' c̄ iyyat al-dalāla", with regard to establishing "ḥurma", on p. 388.

¹⁵¹Ibid., p. 79.

end of the world, Shaltut resorts to technical linguistic concepts.¹⁵²

In this section, too, Shaltut uses all his polemical and dialectical skills, for example taking his opponents' arguments to their logical conclusions in order to ridicule them, as where he says that if the description of Jesus as one of the mugarrabūn means that he was physically raised up to be near God, then there must be many others up there besides Jesus.¹⁵³ Elsewhere he points out the circular reasoning of his opponents, who when dealing with the Qur'anic text maintain that the hadīth of the miḥrāj shows that the rafʿ in the Qur'an is a physical one, and when dealing with the hadīth of the miḥrāj, maintain that the Qur'anic text shows that the miḥrāj was physical, not just spiritual.¹⁵⁴

Having shown that ijmāʿ can have no authority in matters of the unseen, Shaltut takes the argument a step further when he says that even if ijmāʿ were to be accepted as an appropriate authority for the signs of the Sāʿa (Last Hour), this would not alter the fact that there has always been disagreement (i.e. an absence of ijmāʿ) on the question of the descent of Jesus.¹⁵⁵

¹⁵²Ibid., p. 76: "...al-ḥukm idhā usnida fi'l-lafz ilā al-dhāt..." etc.

¹⁵³Ibid., p. 69; for other examples where he takes matters to their logical conclusions see pp. 229 ("Wa-naḥnu law..."), 302-3 and 173 ("Wa-innanā law abahna...").

¹⁵⁴Ibid., p. 62.

¹⁵⁵Ibid., pp. 79-80.

Shaltut again brings his powers of argument to bear on the phrase "wa-innahu la 'ilmun li'l-sā'a, fa-lā tamtarunna bi-hā", showing how it would be illogical to use something which was itself an object of doubt (i.e. the descent of Jesus at the end of the world) in order to remove another doubt (about the reality of the resurrection).¹⁵⁶

It is in lengthy and detailed discussions like that of raf' 'Isā that Shaltut often quotes the opinions of various jurists; there he quotes the opinions of Ibn Jarīr (al-Ṭabarī), Ibn Ḥazm, Al-Qādī 'Iyād, al-Sa'īd, Muḥammad 'Abduh, Rashīd Riḍā and al-Marāghī, in order to show that there has never been unanimity on this subject.¹⁵⁷ In his discussion on birth control, he refers to various opinions including those of al-Ghazālī, the Ḥanafī school, and sometimes simply "al-fuqahā'" or "al-'ulamā'".¹⁵⁸ Other areas where he deems it appropriate to discuss the opinions of the jurists or madhāhib include holding the Friday prayer before noon, the status of one who omits the obligatory acts of worship, and the pawning of plots of land (rahn al-atyān).¹⁵⁹ In more straightforward matters Shaltut will often simply quote an authority such as al-Alūsī or al-Rāzī in support of his own views.¹⁶⁰

¹⁵⁶Ibid., p. 75.

¹⁵⁷See ibid., pp. 71ff. and 80-81.

¹⁵⁸Acīda wa-Shari'a, pp. 200, 201-2, 210 and 212.

¹⁵⁹Fatawa, pp. 92-95, 161-63 and 344-47 respectively.

¹⁶⁰See e.g. ibid., pp. 41, 55 and 128-29.

iv) Conservatism and caution

In spite of the importance attached to intentions and underlying reasons, we occasionally find Shaltut somewhat formalistic; and in spite of the importance attached to the principle of yusr and his general inclination to lenience, we sometimes find him surprisingly strict. Thirdly, in spite of the avowed right of ijtihād and non-adherence to the schools of law, we sometimes find him reluctant to depart from the schools, or indeed from Egyptian law, altogether, even though his own opinion differs slightly from them.

For example, in the case of one who breaks his fast too early (or begins it too late) in the mistaken belief that the sun has set (or has not yet risen), Shaltut maintains that this entails qadā' (a repetition of the fast on another day), in spite of the ruling that he who eats or drinks forgetfully does not break the fast. Shaltut maintains that in this case, the faster actually ate or drank intentionally (ʿamdan) during the time of fasting. We feel that he is drawing a superficial distinction here, since the faster evidently did not intend to break his fast.¹⁶¹

Having thus inclined to a stricter view than usual, he then proceeds to take a lenient view of the question of injections during fasting; he maintains that no type of injection, anal or otherwise, breaks the fast, even if it reaches the intestines, since the substance does not enter the body by the normal

¹⁶¹Fatava, p. 136.

channels or pass through the stomach.¹⁶² Rashīd Riḍā and H.M. Makhlūf, on the other hand, both point out that some types of injection may have the effect of nourishing and invigorating the body, thus fulfilling the function of food and drink, and should therefore be considered to break the fast.¹⁶³ The latter view would appear to take account of the inner reality rather than the outer form, although Shaltut is clearly influenced by a desire to make things easier for the fasters and to dissuade Muslims from being preoccupied with such details, for the observance of the spirit of the fast

..raises the soul above such preoccupations as to whether things like this break the fast or do not break it, and protects the faster from having doubts as to the validity of his fast, for the fasting which God desires, and upon which, according to the Qur'an, true piety depends, is not a subject of doubt and obscurity as one would imagine from the behaviour of fasters and muftis...¹⁶⁴

Thus the apparently formalistic view of injections is in fact inspired by the desire that people should pay more attention to the essentials of their religion rather than the formalities. In this passage we can almost see the preacher and the missionary in Shaltut overcoming the faqīh - something one would not normally witness in a book of fiqh or fatwās.

¹⁶²Ibid., pp. 136-37.

¹⁶³See Rashīd Riḍā, op. cit., 5:2123-24 and Ḥasanayn Muḥammad Makhlūf, Fatāwā Sharḥiyya, 2nd ed., Cairo: Muṣṭafā al-Bābī al-Ḥalabī, 1965, 1:311-12.

¹⁶⁴Fatawa., p. 137.

There are certain subjects on which Shaltut appears to be uncharacteristically strict, and this is most often where he is influenced by the abuses he witnesses in his own environment and his fervent desire to put an end to them. This is the case where he discusses the causes to which zakāh and ṣadaqa should be devoted, and maintains that the Qurānic category of "ghārimīn" (debtors) is no longer applicable, because in his opinion the only debtors which exist nowadays are those who have incurred debts as a result of immorality or reprehensible behaviour, such as drinking and gambling.¹⁶⁵

Similarly in the case of Muslim men who marry European women for the wrong reasons, and allow their children to be brought up as Christians, Shaltut believes that where such abuse becomes widespread a government should if necessary ban such marriages altogether, even though this would mean prohibiting (albeit temporarily) something which is explicitly permitted in the Qur'an.¹⁶⁶

In the case of repudiation and divorce, it is understandable that Shaltut should wish to be as strict as possible in view of the widespread abuse of the divorce laws, but also because it is not actually in the interests of the couples concerned to obtain an easy divorce.¹⁶⁷ By applying the strictest criteria as to such

¹⁶⁵Ibid., p. 118; he does not insist on this point elsewhere, however - see ʿAqida wa-Shariʿa, p. 100, where he appears to accept this category.

¹⁶⁶Fatawa, pp. 279-80.

¹⁶⁷Ibid., p. 311.

things as intention, pronouncement on separate occasions and during the tuhr (when the woman is not menstruating) etc.,¹⁶⁸ Shaltut could therefore be said to be observing the public interest.

Sometimes when giving fatwās, Shaltut does not feel it appropriate to enforce his own personal view where the weight of authority seems to support a different opinion, so he resorts to takhayyur (the selection of an opinion from among the madhāhib) rather than suggesting a complete departure from the madhāhib. In his discussion of the amount of ridāc which entails tahrīm, Shaltut makes it clear that he does not believe it is a question of any particular number of occasions, but laying stress on the Quranic use of the word "ummahāt", maintains that the ridāc should continue for such a time as is sufficient for the foster-mother to have real maternal feelings for the infant.¹⁶⁹ In his final summing up, however, he compromises by choosing the most lenient opinion from among the schools of law, in this case the Shafi'i opinion that five or more radācāt entail tahrīm.¹⁷⁰ This may be partly due to the difficulty of legislating on the basis of such an intangible thing as maternal feelings, but probably also represents a reluctance to go against widely held opinions and thus contribute to the confusion which may be caused by contradictory rulings.

¹⁶⁸Ibid., p. 310.

¹⁶⁹Ibid., p. 284.

¹⁷⁰Ibid., pp. 285-86.

Similarly on the question of conditional repudiation (ṭalāq muʿallaq), Shaltut evidently feels that it should be invalid regardless of the intention behind it,¹⁷¹ but under the heading "The legal opinion we choose to give as a fatwā", he compromises by saying that conditional repudiation is invalid "so long as the intention is to frighten or threaten, and not to actually repudiate",¹⁷² thus avoiding direct disagreement with the current Egyptian law, and with "many scholars of all ages".¹⁷³

Of course, a certain amount of "conservatism" is essential, for no responsible faqīh would disregard the accumulated wisdom of fourteen centuries of scholarship; indeed any scholarly tradition necessarily relies on what has gone before. Those who call for ijtihād in the modern age are not usually calling for a totally new departure, but are in fact more concerned to refute the concept of taqlīd - the idea that Muslims are bound by the opinions of any particular jurist or group of jurists. In practice, the area in which ijtihād is most needed and applied is on those matters which are specific to the modern age and which were therefore not dealt with in classical fiqh. Shaltut has a great respect for classical Islamic scholarship, and accordingly quotes opinions of various jurists and madhāhib wherever appropriate.

¹⁷¹ Ibid., p. 300.

¹⁷² Ibid., p. 306.

¹⁷³ Ibid., p. 300.

Like Muslim scholars before him, Shaltut believes that the practice of the sahāba, the generation closest to the Prophet, has a special value, and he sometimes cites it as evidence for or against particular practices. The Muslim ruler's right to impose zakāh by force if necessary is witnessed by the wars of the rida under Abū Bakr;¹⁷⁴ the fact that the Companions built a high wall around the Prophet's grave, in order to avoid seeing it from the mosque and in effect praying to it, demonstrates the hurma of praying in or to saints' tombs;¹⁷⁵ and since the Companions and later generations (and of course the Prophet himself) freely practiced polygamy, Muslim modernists should not try to maintain that it is prohibited or only permitted on certain conditions.¹⁷⁶

The importance attached to the practice of the early Muslims ("al-salaf al-sālih") is considered to be one aspect of the modern-day desire to purify Islam from later accretions, but as we have seen in Chapter Two, where we found that the Companions were often accorded a special authority in tafsīr, Muslim scholars of all ages have always had reference to the practice and opinions of the Companions for obvious reasons.

Summary

¹⁷⁴ Ibid., p. 116.

¹⁷⁵ Ibid., pp. 104-5.

¹⁷⁶ Aqida wa-Shari'a, pp. 183-84; for other examples see Fatawa, pp. 200, 204, 216 and 391.

Thus in Shaltut's fatwās we see many interweaving threads, as he strikes a balance between the faqīh and the wā'iz, and maintains a tension between qualities which may appear paradoxical. Although he is a muftī he encourages people to look to their own consciences instead of relying too much on fatwās;¹⁷⁷ generally inclined to lenience, he is uncompromising and strict on certain matters, and while usually having regard for the essence and intention, he occasionally appears formalistic. His idealist outlook and emphasis on general points does not prevent him from occasionally making specific suggestions of a practical nature.¹⁷⁸ Inconsistencies are rare, however, and the whole is tempered by Shaltut's training and sobriety so that the element of subjectivity does not appear intrusive, but his work may be said to represent an appropriate continuation of Islamic scholarship into the modern age.

3) Penal Law

The bulk of "ʿAqida wa-Shariʿa" is taken up by the middle section on the Shariʿa, which divides the Shariʿa into categories. Of these, penal law is the longest section and the most concentrated as regards scholarly content, containing discussion of many specific legal points and of the differing

¹⁷⁷Fatawa, p. 143.

¹⁷⁸See ibid., pp. 123-24, where he makes a suggestion about the collection and distribution of zakāh, and p. 174, where he suggests ways of dealing with the problem of the accumulation of rotting meat at Minā during the hajj season.

views of the jurists concerning them, and detailed examination of the sources.

The chapter on penal law is divided into three parts: "The methods and aims of the Shari'ca in establishing penal law", "The crime of homicide in Islam and in other laws", and "The rulings on homicide and qisās contained in the Qur'an and the Sunna". In the first part Shaltut sets out to give an overview of Islamic penal law, describing the different types of punishment and their characteristics; the second part is of a general nature, consisting of a straightforward comparison between the Islamic method of dealing with homicide and that of other societies; the third part is the longest and the most detailed, containing an analysis of the relevant sources, and accordingly will receive more attention. We aim to take into account all parts in order to illustrate Shaltut's overall approach, but to treat the more complex issues in greater depth.

a) Methods and Aims of the Shari'ca in its Penal Law

Shaltut begins by referring to the threat of other worldly punishment as an important deterrent to the potential transgressor, especially regarding those things which often go undetected and therefore unpunished in this world, such as the moral crimes of lying, slander etc.¹⁷⁹ As regards worldly punishments, these are divided into nassiyva (those which are

¹⁷⁹c Aqida wa-Shari'ca, p. 279.

laid down in the texts, i.e. the hudūd) and tafwīdiyya (those whose legislation is left to man's discretion).¹⁸⁰

i) Hudūd

The hudūd have been laid down as punishments for the most serious crimes which involve violating one of the five "essentials": religion, life, reason, honour and property,¹⁸¹ to which a sixth is added, law and order.

Shaltut deals with the individual hadd crimes only briefly, citing the text upon which the legislation is based and often selecting specific aspects which have given rise to difference of opinion among jurists, such as, on the subject of zinā (illicit sexual relations), whether Qur'an 24:2, which prescribes that the adulterer should be given a hundred lashes, abrogates 4:15-16, which states that women who commit fornication should be confined to their houses, and men who do so should be "punished" ("fa-ādhūhum") or whether the latter verses refer to a different category of zinā, e.g. homosexuality. Another question dealt with is whether or not the statement: "The adulterer shall marry none save an adulteress or an idolatress..."(24:3) has legislative status.¹⁸²

In most of these discussions Shaltut simply states the different opinions without passing judgement on them or offering

¹⁸⁰ Ibid., p. 280.

¹⁸¹ See Khallāf, op. cit., p. 200.

¹⁸² Agida wa-Shari'a, pp. 281-82 and 283-84 respectively.

his own opinion. On the question of apostasy, however, Shaltut feels bound to support the view that the hadd penalty is inappropriate, since it is based on a hadīth āhād, which is considered by many to be insufficient evidence to establish a hadd crime; he adds that it is only waging war on the Muslims and Islam which justifies bloodshed, not mere kufr, and ends by quoting Quranic verses which show that there can be no compulsion in religion.¹⁸³ Again, in the case of wine-drinking, in view of the differences of opinion among the classical scholars, Shaltut opines that the punishment in this case comes under the heading of ta'zīr (discretionary punishment) rather than hudūd.¹⁸⁴

Sometimes Shaltut merely mentions the existence of certain questions with which the scholars have dealt, such as whether the penalty for apostasy applies to women or followers of religions other than Islam, and whether the apostate should be given a chance to repent; or on the subject of theft, the minimum amount for which the hadd penalty may be exacted, whether compensation is payable in addition to the exaction of the hadd penalty, methods of executing the hadd, and whether repentance causes the hadd to be waived.¹⁸⁵

Shaltut follows this brief and selective survey of the individual hudūd with some general points concerning them. He points out that the hadd penalties are for crimes which

¹⁸³ Ibid., p. 281.

¹⁸⁴ Ibid., p. 287.

¹⁸⁵ Ibid., pp. 281 and 286.

principally violate the "rights of God", i.e. crimes against society as a whole, while crimes against the individual, which principally violate the "rights of man", are punishable under the system of qisās.¹⁸⁶

This leads him to discuss the differences between the hudūd and qisās. As regards the hudūd, procedure is generally stricter than in qisās; judgement in the latter case can be on the basis of the judge's own knowledge, or on the basis of the testimony of a dumb man (i.e. by gestures or by writing) - evidence which is inadmissible in the case of the hudūd. There is no time limit for prosecution in qisās, unlike the hudūd (with the exception of qadhf). In qisās, punishment can be waived by a pardon from the victim or his next of kin, the obligation to pay diya (blood-wit) is heritable, and intercession is permitted, while none of these are possible in hudūd. A further difference is that in qisās there must be a plaintiff.¹⁸⁷

ii) Ta'zīr

In his short section on al-ʿuqūbāt al-tafwīdiyya (punishment which is left to man's discretion), Shaltut points out that this kind of punishment is for those cases where the hadd punishment cannot be applied due to a failure to fulfil all the stringent conditions as regards witnesses etc., as well as for non-hadd

¹⁸⁶ Ibid., p. 288.

¹⁸⁷ Ibid., pp. 288-89.

crimes.¹⁸⁸ After quoting Ibn Qayyim to show that ta'zīr has always been an accepted phenomenon, and was applied by the Prophet and the Companions as a necessary complement to the hudūd. Shaltut selects two specific points for discussion: can the ta'zīr exceed the hadd penalty for a given crime, and are fines or confiscation of property (akdh al-māl) a valid form of punishment?

In the first question Shaltut quotes various opinions all supporting an affirmative answer: the Malikis claim that the hadīth restricting punishment to ten lashes except in the hudūd was applicable only in the Prophet's time, while the Hanafīs believe that certain non-hadd crimes deserve the death penalty. Some early authorities, including °Umar ibn °Abd al-°Azīz, maintain that people should be punished according to the gravity of their crime, regardless of the hudūd penalties, and Shaltut recommends this view as being in accordance with the public interest.¹⁸⁹ In the second question Shaltut again quotes only opinions in support of the affirmative view, including that of Ibn Qayyim, who relates that the Prophet sometimes confiscated booty as a punishment, and decreed that the withholder of zakāh should have part of his property expropriated. Summing up, Shaltut says that there are no limits on the nature or quantity of discretionary punishments, providing always that justice is observed and that the appropriate people are consulted, and that

¹⁸⁸ Ibid., p. 291.

¹⁸⁹ Ibid., p. 293.

therefore there is scope for a sophisticated criminal law in Islam.¹⁹⁰

iii) The aim of the Shari'a in establishing punishment

In this section Shaltut aims to bring out the harmonious nature of Islamic penal law and the wisdom that lies behind it.

He does this in various ways. Firstly, he highlights the necessity for worldly punishment; despite the existence of the religious sanction, many people's faith is weak and they are vulnerable to temptation. Society as a whole needs to be protected from crime and corruption, which spread like germs if left unchecked.¹⁹¹ No society, even an Islamic one, can ever be wholly free from evil, so worldly punishment is a perennial necessity.¹⁹²

Having established this, Shaltut points out that Islamic penal law must be taken in the context of Islamic society as a whole. Islam aims to prevent crime by various methods, encouraging a sense of social responsibility in the individual and urging him to undertake profitable work; Muslims are encouraged to exhort one another to do good and to avoid evil, and Islam aims to establish justice, giving help to the poor and needy, so that no one need be forced to turn to crime. Therefore worldly

¹⁹⁰ Ibid., pp. 294-95.

¹⁹¹ Ibid., p. 295.

¹⁹² Ibid., p. 298.

punishment is only a last resort where all else, including the threat of divine punishment, has failed.¹⁹³

Even where punishment is warranted, it may lapse due to cafw (pardon) in individual cases or due to repentance in crimes against society; in the latter case Shaltut again inclines to the more lenient view. Here he quotes with approval Ibn Qayyim, who argues against those who maintain that repentance can only exclude punishment in cases where a muhārib (one who wages war on the Muslims or Islam) gives himself up and repents before he is overpowered, saying that if repentance can have this effect in the most serious of crimes, then it should even more appropriately do so in other crimes.¹⁹⁴

Shaltut ends this section with a description of the Shari'a in its penal law, comparing it to a skilful doctor who, having attempted a cure by all other means, sees that the life of the patient must be saved by amputating a limb, or to a captain who realises that some things must be thrown overboard to save the ship from sinking.¹⁹⁵

¹⁹³Ibid., pp. 296-98; modernists have pointed out the inappropriateness of enforcing hadd penalties in the absence of the total application of the Shari'a, which would ensure social justice - see M. Cherif Bassiouni, (ed.), The Islamic Criminal Justice System, New York: Oceana Publications, 1982, p. 5, and J. Donohue and J. Esposito, (eds.), Islam in Transition: Muslim perspectives, New York: Oxford University Press, 1982, p. 239, in an article by Najib Mahfuz.

¹⁹⁴Ibid., pp. 299-301.

¹⁹⁵Ibid., p. 302.

b) The Crime of Homicide in Islam and in Other Laws

In order to show that murder has always been regarded as a heinous crime from which human nature recoils, Shaltut refers to the first murder ever committed, that of Abel by his brother Cain as related in the Qur'an, where there is mention of Cain's hesitation before the crime and regret after it.¹⁹⁶ Secondly, Shaltut describes the Jewish law, where retaliation is prescribed and Jews are exhorted to have no pity on the offender, so that there is no possibility of pardon.¹⁹⁷ Thirdly, in the gospel, Christians are exhorted to "turn the other cheek", and this represents a lenient attitude towards criminals, which would exclude the possibility of imposing the death penalty on murderers. However, Shaltut agrees with Muḥammad 'Abduh that the Jewish law was not in fact abrogated by the gospel, Jesus himself having said: "I have come not to abrogate the law but to complete it".¹⁹⁸ Fourthly, in Roman law the punishment differed according to the social status of the culprit.¹⁹⁹ Finally, the pre-Islamic Arabs had a system of qisās, but due to tribal fanaticism the system was abused, aggrieved parties often demanding excessive retaliation, so that blood feuds ensued.²⁰⁰

¹⁹⁶ Ibid., p. 304.

¹⁹⁷ Ibid., p. 305.

¹⁹⁸ Ibid., pp. 306-7.

¹⁹⁹ Ibid., pp. 307-8.

²⁰⁰ Ibid., pp. 308-9.

Thus the Islamic law may be favourably compared with all these, rectifying the undue harshness of Jewish law, the extreme lenience (by some Christian interpretations) of the gospel, the injustices of Roman law and the excesses of pre-Islamic practice.²⁰¹

Shaltut then proceeds to enumerate the basic principles which Islam established in this regard: it established the death penalty as a punishment for the crime of murder, it gave the aggrieved party the choice of pardon or qisās, it made everyone equal in this regard, any human life being worth any other human life regardless of social status, it stipulated that qisās should be exacted from the criminal alone, and gave the right of pardon to the victim's next of kin (i.e. the walī al-dam, the person(s) who has the right to prosecute) rather than to the ruler, as in Roman law and most modern laws.²⁰² Shaltut highlights the wisdom of the Shari'a in each case, for example the establishment of the death penalty and the granting of the right of exacting it or waiving it to the walī al-dam are measures which actually help to stabilise society, for in this way the walī al-dam can feel that justice has been done and any desire for revenge can be satisfied without leading to illegal actions.²⁰³

²⁰¹ Ibid., p. 309.

²⁰² See subheadings in ibid., pp. 311-20.

²⁰³ Ibid., pp. 311 and 316 ff.

c) Rulings of the Qur'an and the Sunna with regard to Homicide and Qisās

In this section Shaltut arranges and deals with the texts of the Qur'an and the Sunna according to their subject matter and legislative function. In view of the length of this section we will put aside some of the minor points dealt with in order to concentrate on the longer and more detailed discussions.

i) Repentance

After reproducing the Quranic verses which mention the divine punishment for the crime of murder (4:93 and 25:68-70),²⁰⁴ Shaltut discusses the differences of opinion concerning the relationship of these two passages to one another. Both passages describe a grievous other-worldly punishment, but only the latter passage mentions the possible mitigating effect of repentance ("...except those who repent and believe and do good works..."). Some have claimed that (25:68-70) is abrogated by (4:93), and that therefore the murderer's repentance is of no avail and cannot save him from hellfire. Shaltut, however, feels that (25:68-70) applies to polytheists, who may still repent and turn to Islam and mend their ways, while (4:93) applies to Muslims; he maintains that this view is supported by the particular phraseology of (25:68-70) which mentions three crimes, including that of shirk (associating partners with God), followed by three remedies, including that of belief in God, and by the fact that

²⁰⁴ Ibid., p. 323.

the verse immediately preceding the other verse (i.e. 4:92) specifically mentions believers: "It is unlawful for a believer to kill another believer except by mistake...".²⁰⁵

With regard to the relationship between repentance and divine forgiveness for grave sins there are three opinions: those who believe that repentance is of no avail and divine punishment inevitable; those who believe that divine punishment is definitely excluded by repentance and that God may even forgive in the absence of repentance, and those who believe that while repentance does entail forgiveness, forgiveness is not possible without it. Shaltut quotes al-Zamakhsharī approvingly in support of the latter view, which is seen as the mean between two extremes.²⁰⁶

ii) The Quranic texts on qisās

Here again there is a need to define the relationship between two Quranic passages on the subject, in this case 17:33 and 2:178-79. In order to highlight the differences between them and the way in which they are related to each other, Shaltut brings in a general description of the differences between the Meccan and Medinan sections of the Qur'an; while the Meccan passages are more concerned with general truths and individual salvation, the Medinan parts supply detailed legislation which is addressed to the Muslims as a community. In the light of these facts, the two

²⁰⁵ Ibid., pp. 324-25.

²⁰⁶ Ibid., pp. 325-27.

passages concerned need not be taken in isolation from each other, or as one abrogating the other, but can be seen to be complementary, the second building on the first. While the Meccan verse confirms that the walī al-dam has the right to demand qisās but should not exceed this right, the Medinan verse adds certain details, including the encouragement to pardon the offender and the entrusting of the actual execution of qisās to the whole community, i.e. to its representative authorities, rather than simply to the walī al-dam. This is implied by the opening address of the passage: "Oh you who believe, qisās is prescribed for you...".²⁰⁷ While the Meccan passage simply aims to inspire a spirit of justice in the individual and to pave the way for later modifications, the Medinan passage actually provides the legislation in its final form.²⁰⁸

In the detailed tafsīr of the two passages which follows, Shaltut tackles certain controversial legal issues, giving an overview of the various opinions.

Justifiable homicide

On the subject of what constitutes lawful killing, he discusses whether or not it is lawful for any member of the community to kill someone who has incurred the penalty of qisās for murder. The four schools of law all reply to this question in the negative, maintaining that the killer of the culprit then becomes subject to qisās in his turn. Only Qatāda and Abū Hāshim

²⁰⁷ Ibid., pp. 334-35.

²⁰⁸ Ibid., p. 336.

believe that no qisas is due because they consider that the ibāḥa (lawfulness) of the culprit's blood is absolute - i.e. he may be lawfully killed by anyone.²⁰⁹

Related to this is the question of whether the death penalty for a ḥadd crime can be executed by an unauthorised person; in the case of an adulterer, for example, the majority view is that he is mubāḥ al-dam, since there is no possibility of pardon here. Only some Shafi'i's feel that qisās is due as a result of such a killing. Here, however, Shaltut interposes his own view, which is that only the representative authority (walī al-amr) has the right to demand the execution of the ḥadd penalty, just as only the walī al-dam has the right to demand qisās. He feels it is inappropriate to draw an analogy between the adulterer and the muhārib, who can lawfully be killed by any member of the Muslim community.²¹⁰

In the case of an adulterer being caught in the act, however, the case is slightly different. A well-known hadīth relates that 'Umar approved of a man who killed his wife and a man upon finding them in bed together. Although many fuqahā' say that four witnesses are necessary for such an action to be lawful, otherwise it constitutes qadhf (an unsubstantiated accusation of unlawful intercourse), Shaltut maintains that the action does not constitute the exaction of the ḥadd penalty but is a kind of crime of passion (due to "al-ghayrat allatī tushbihu al-junūn")

²⁰⁹ Ibid., pp. 340-42.

²¹⁰ Ibid., pp. 341-42.

therefore ordinary legal evidence (as opposed to that required to establish a hadd penalty) is sufficient in this case to establish whether or not the killing was lawful.²¹¹ However, this does not mean that it is lawful to kill even an unknown person who is indulging in illicit sexual relations. Some scholars may justify such a killing by describing it as the practical aspect of "al-nahy °an al-munkar", but others have objected that it is only for the imam to go to the lengths of killing someone in this case; other people should restrict themselves to less drastic measures in order to avoid an escalation of the affair, in accordance with the principle of "committing the lesser of two evils".²¹²

On the question of killing in self-defence or in defence of one's property, Shaltut does not agree with those who apply the hadīth: "Whomsoever draws a sword on the Muslims may be killed with impunity" to cases of self-defence, since he believes that this hadīth applies only to bughāt - Muslims who collectively wage war on the rest of the Muslim community.²¹³ In defence of one's property, one should apply only so much force as is necessary, killing being only a last resort. Moreover, most scholars agree that the thief must be caught red-handed; if he reaches a place of safety with his loot it is too late to attack him.²¹⁴

²¹¹ Ibid., pp. 344-45.

²¹² Ibid., pp. 345-46.

²¹³ Ibid., pp. 342-43.

²¹⁴ Ibid., pp. 343-44.

The definition of murder and the implications thereof

In his discussion of what constitutes murder punishable by death, Shaltut begins by showing that the sources stipulate that the killing must be both wrongful and intentional. Moreover it is only fitting that the ultimate punishment should be for the ultimate crime, which must needs be intentional.²¹⁵ The legal definition of murder is given as: "The taking of the life of a human being (it having been established that the person was indeed alive) who was not already dying, by an action which would normally kill, committed by a person who is responsible for his acts".²¹⁶

Certain questions arise from this definition, for example, in the case of someone killing a person who was already dying from a previous fatal wound, should the first or the second assailant be held responsible? The majority view is that the first assailant is subject to qisās, since his action actually destroyed the victim's life, even if the process of dying was not subsequently allowed to take its natural course, and therefore the life could not be taken a second time, as it were. The Zāhirīs, on the other hand, believe that the second assailant is to be held responsible, and this is based on the belief that a dying man can still inherit or convert to Islam, therefore he is definitely alive and can be killed.²¹⁷ However, Shaltut points out that

²¹⁵Ibid., pp. 347-48.

²¹⁶Ibid., p. 348.

²¹⁷Ibid., p. 349.

those who hold the first view do not agree on the possibility of a dying man inheriting or converting to Islam. He does not in any case approve of the analogy between the imposition of qisās and the ability to inherit (which requires only life) and convert to Islam (which requires the ability to discriminate), nor does he see why such reasoning should absolve the first assailant of his crime. Shaltut then relates the Maliki view that when both assailants inflict fatal wounds, both are subject to qisās.²¹⁸ One is tempted to believe that this is Shaltut's own view, although he does not explicitly say so, since he relates it last of all as the final word, and since it accords with his views on the execution of justice both as retribution for the crime and as a deterrent to criminals.

As regards the actual method of murder, scholars have discussed this from the point of view of the weapon used and whether the culprit was the direct or indirect cause of death. Most scholars do not define the type of weapon which may constitute proof of murderous intent, since even a small stone can be lethal if aimed at the right spot; similarly most scholars acknowledge murder by "indirect" causation (tasabbub), such as throwing someone to wild beasts or depriving them of food and drink for a length of time which would normally be fatal.²¹⁹ Abu Hanifa, on the other hand, stipulated that the weapon must be one which is capable of cutting or piercing (tufarriqu al-ajzā' - the

²¹⁸ Ibid., p. 350.

²¹⁹ Ibid., pp. 351-52.

definition is extended to include fire), otherwise deliberate intent could not be definitely established. Shaltut points out that although this definition is in accordance with the principle of exercising caution in establishing ibāhat al-dam (i.e. of the defendant), it has the effect of making it easy for criminals to act with impunity. Moreover there is no restriction placed on the concept of qatl in the sources, where, in Shaltut's view, details as to method are omitted due to the fact that means of causing death vary according to time and place, and new methods are being constantly devised by criminals.²²⁰

It is interesting that Shaltut pauses here to deprecate certain harsh criticisms of Abū Ḥanīfa on this subject; Ibn Hazm is particularly scornful of Abū Ḥanīfa's opinion, which he describes as a "scandal against Islam". Shaltut is anxious to defend Abū Ḥanīfa on the grounds that he was probably only observing the methods of murder most common in his own environment, and could not foresee the ingenious methods which were to be later invented. He further adds that it may simply have been an opinion of some of his pupils and wrongly attributed to him, and that in any case Ibn Ḥazm should not be so hasty to neglect Abū Ḥanīfa's invaluable services to Islamic scholarship.²²¹

The opinion of Abū Yūsuf and al-Shaybānī is then related, which is that the murder may be committed by any weapon which is

²²⁰ Ibid., pp. 352-53.

²²¹ Ibid., pp. 353-54.

intrinsically likely to kill, but tasabbub as previously described is not accepted. However, Shaltut prefers the view that where causation can be clearly established, i.e. any action which would normally be expected to lead to death, such as, to take an extreme example, pushing someone off a cliff, the case can be treated as murder, for otherwise criminals will take advantage of loopholes in the law.²²²

Related to these issues is the category of shibh al-^camd (quasi-deliberate intent), a type of homicide which is recognised by most but not all of the jurists. Those who do recognise it see it as an intermediate category between deliberate intent and excusable homicide, i.e. it is an action committed deliberately but which would not normally be expected to lead to death. Shaltut points out that the scholars' definitions of shibh al-^camd complement their definitions of murder as regards the weapon used; thus Abu Hanifa describes it as homicide involving weapons which do not fulfil his strict criteria, Abū Yūsuf and al-Shaybānī regard it as murder by tasabbub, and the majority define it as death caused by any instrument or action which would not normally be lethal, such as a blow delivered to one of the less vulnerable areas of the body ("fī ghayri maqtal"). Mālik and the Zāhirīs do not recognise shibh al-^camd since they do not recognise the hadīth which is normally claimed as an authority for this.²²³

²²² Ibid., pp. 354-55.

²²³ Ibid., pp. 355-56.

Aspects of qisās

In his tafsīr of the Medinan verses (2:178-79), the phrase: "a free man for a free man, a slave for a slave and a female for a female" leads Shaltut to discuss the concept of equivalence (mumāthala) in qisās (the root meaning of the word qisās itself being "equivalence"). Like most mufassirūn, Shaltut takes this phrase to be a repudiation of the pre-Islamic practice whereby relatives of a murder victim would demand excessive retribution; not content to simply take the life of the murderer, they would often demand to take the life of a higher ranking member of the murderer's tribe instead, even though that person was innocent of the crime. Here Shaltut quotes al-Baydawi approvingly, who does not agree with those who maintain on the basis of this verse that in certain murders, such as the murder of a slave by a free man or a female by a male, qisās may not be demanded. Shaltut maintains that the only characteristic that is relevant here is that of life, for all lives are equally sacred.²²⁴ He refutes the interpretation of those who believe that the phrase is an elaboration of the concept of equivalence, so that qisās only obtains where the victim and the offender are of equal status.²²⁵

Shaltut then proceeds to deal with three specific cases which have aroused controversy in the past: where a father kills his son, where several assailants kill a single victim, and where a Muslim kills a dhimmī. In the first case, Shaltut disagrees with

²²⁴ Ibid., pp. 369-70.

²²⁵ Ibid., p. 371.

those who reason that since the father is the cause of the son's existence, it is inappropriate that the son should then become the cause of his father's non-existence, i.e. by the father being subject to qisās for the murder of his son. He argues that a man can be subject to the penalty of death by stoning for the crime of committing zinā with his daughter, even though he is the cause of her existence. He disagrees therefore with the majority view that qisās does not obtain here, and goes even further than the Mālikīs who stipulate that extra caution should be exercised in ascertaining deliberate intent, in view of the fact that the father may only have intended to punish or discipline his son. Shaltut prefers to interpret the qisās laid down by the Qur'an as absolute, with no special conditions obtaining in this case, in accordance with the cumūm of the Qur'anic verses.²²⁶

Similarly in the case where there is more than one assailant, the Qur'an places no restriction on number; the crux upon which the ruling hangs is the murder itself. Failure to apply qisās here would provide a loophole for potential murderers and would deprive the walī al-dam of his right. Here Shaltut is in accordance with the majority view.²²⁷

Again, in the case where a dhimmī is murdered by a Muslim, Shaltut remains consistent with his view that there should be no exceptions to the rule, disagreeing with the majority view that qisās cannot be exacted in these circumstances. In a discussion

²²⁶ Ibid., p. 372.

²²⁷ Ibid., p. 373.

between a Ḥanafī scholar and a Shāfi'ī scholar reported by Ibn 'Arabī on the subject, it is obvious that Shaltut's sympathies lie with the arguments of the former, who maintains that qisās is applicable here because the verse is āmm, and the phrase beginning: "a free man for a free man..." stands independently and not as an elaboration of the concept of qisās. Moreover a Muslim and a dhimmī are equal as regards hurmat al-dam, for it is not lawful to kill either of them. Shaltut further maintains that the brotherhood referred to in the phrase: "He who is pardoned by his brother..." is not necessarily the brotherhood of Islam but could be the most basic brotherhood of all - that of humanity. Even if taken as applying only to Muslims, it could apply only to the possibility of pardon and not to qisās.²²⁸

iii) Qisās in cases of injury

As regards qisās in cases of injury (al-qisās fī-mā dūna al-nafs), Shaltut relates the Ḥanafī principles, in view of the fact that all the schools are agreed upon the classes of wound that the Ḥanafīs acknowledge as giving grounds for qisās, while there is no unanimity as regards other types of wound. In fact it becomes clear that the area upon which all are agreed is very restricted indeed, consisting of only two types of wound: firstly, a wound to the head or the face which falls under the category of muwaddiḥa (revealing the bone; one of ten categories into which wounds are divided), and secondly, a wound to a joint.

²²⁸ Ibid., pp. 373-75.

In both cases a year must pass without the wound healing in order for qisās to be applicable. Shaltut himself points out drily that such a wound could only exist in a hypothetical case where it was inflicted with surgical care and precision on an immobile victim, in order to fulfil the necessary conditions.²²⁹

Shaltut then discusses the legal sources for qisās in cases of injury; many scholars rely on Qur'an 5:45 which describes the Jewish law ("an eye for an eye..."), in accordance with the belief that previous divine laws, if not explicitly abrogated, are binding on Muslims. However, Shaltut agrees with those who see each divine law as a separate entity, on the basis of the context of the verse in question, and in particular the phrase: "For each we have ordained a divine law and a path..." (5:48).²³⁰ As for those verses which speak generally of repaying like with like as regards aggression and punishment (2:194, 16:126, 42:40), Shaltut believes that the context of these passages shows clearly that it is conflict between the Muslim community and external aggressors which is at stake here, not private conflicts between individual Muslims.²³¹ Shaltut dismisses a hadīth which relates an incident where the Prophet ordered qisās in a case of injury, on the grounds that its many conflicting versions make it muḍṭarib, and it is in any case a hadīth āhād, which many

²²⁹ Ibid., pp. 379-81.

²³⁰ Ibid., pp. 382-84.

²³¹ Ibid., p. 385.

scholars do not accept as sufficient authority for the establishment of punishments.

The only remaining authority, then, is ijmā^c, and Shaltut maintains that this is the only genuine authority for this type of qisās, for it was practiced by the Companions and all subsequent generations, without any dissent to the principle ever being expressed.²³²

d) Summary

From this survey of Shaltut's section on penal law, certain characteristics emerge. Perhaps the most salient feature is Shaltut's caution. This is apparent in his treatment of the sources, where he feels it is very important that the authority given should be of an appropriate status. We saw this in the case of the hadd penalty for wine-drinking and apostasy, where he prefers to depart from the majority opinion and err on the side of caution, due to the existence of variant opinions in the first case, and in the second case because he does not consider a hadīth āhād sufficient authority to establish a hadd penalty.

In the application of texts to particular circumstances, Shaltut employs discrimination; such is the case with the Quranic passages cited as evidence for qisās in cases of injury, or with the hadīth cited in support of self-defence, where Shaltut shows that when taken in context they are more appropriately applicable to other circumstances. In his views on the circumstances which

²³² Ibid., p. 386.

entail ibāḥat al-dam, Shaltut is similarly cautious, preferring in all cases that justice should go through the proper channels and that istīfā' (the exaction of the penalty) should be the prerogative of the authorities in both qisās and ḥudūd.

In the rare event that the rule of extreme caution in establishing ibāḥat al-dam does not apply, this is in the interests of maṣlahā, for if one is too restrictive in defining murder methods, criminals' ingenuity would produce ways of evading punishment.

In the case of possible exceptions to the rule in qisās (father/son, Muslim/dhimmī etc.), we find Shaltut reluctant to place any restrictions on the Quranic injunction without suitable authority, even though this means opposing the majority classical opinion.

On several occasions we saw Shaltut's use of tafsīr in determining the legislative status of particular Quranic verses, taking into account such factors as their context, whether they were mutlaq or muqayyad, ʿāmm or khāṣṣ, and perhaps most importantly the relationship between verses on the same topic, for example in the cases of zinā and repentance.

Shaltut could not be said to have a uniform approach throughout the section on penal law. The level of scholarship varies from the relatively superficial discussion of the attitude of different laws and civilisations to the crime of murder, to detailed legal discussions, sometimes giving a broad outline of a particular area of the Shariʿa, at other times selecting a

specific question for discussion. These discussions on points of fiqh vary in their turn, some receiving perfunctory treatment and others touching on fiqh mugārin (comparative jurisprudence), discussing the different opinions of the scholars and madhāhib, and sometimes assuming a certain familiarity on the reader's part with the classical fiqh works.²³³

The subject matter is treated with a certain degree of spontaneity, in that Shaltut feels free to digress slightly in order to defend Abū Hanīfa's reputation, or to broach what is strictly speaking a theological issue - that of divine forgiveness and grave sins. Uncharacteristically, in the section on qiṣās in cases of injury, he criticises the impracticality of the classical legislation without putting forward any suggestions for improvement.

This somewhat uneven treatment illustrates the fact that Shaltut set out not to write a fiqh book to be used for reference purposes, but to give the reader a general picture of a particular area of law, serving to increase his knowledge and perhaps stimulate him to further research, for he sometimes refers the reader to the fiqh books for further details.²³⁴ One should also bear in mind that the Muslim scholar is always mindful of his duty to promote the cause of Islam, which often

²³³Eg. in references to "ṣāhib tahdhīb al-furūq" (p. 293), "ṣāhib al-durr al-mukhtār" (p. 316), and "ṣāhib muntaqā al-aḥbār" (p. 357), where ḥulamā' may be assumed to know the identities of the authors in question, but not ordinary Muslims.

²³⁴Eg. ibid., pp. 285 and 286.

involves giving a balanced and harmonious picture of the whole; it is fairly common to find this kind of general material even in specialist works on Islamic law.²³⁵ Likewise the discussion of the opinions of the madhāhib is increasingly common, jurists feeling free to judge each case on its merits rather than confining themselves to a particular madhhab.²³⁶

Shaltut's opinions appear to accord with today's socio-political climate as regards equal rights etc.; his views on matters such as the possibility of a Muslim being subject to qisās for killing a dhimmi or a father for his son are now gaining majority support with the rise of the more egalitarian outlook which sees all human life as of equal worth.²³⁷

In order to preserve law and order, strict criteria for istifā' are also now regarded as the norm, the person who kills an adulterer or the walī al-dam who kills his relative's murderer being regarded as subject to ta'zīr.²³⁸ This tendency may be due

²³⁵In the area of criminal law see, eg., M.S. al-^cAwwā, Fī Usūl al-Nizām al-Jinā'ī al-Islāmī, Cairo: Dār al-Ma^cārif, 1979, sections entitled "The religious nature of Islamic criminal legislation" and "The preservation of moral values", pp. 40-48.

²³⁶See eg. M. S. al-^cAwwā, op. cit., and Muḥammad Abū Zahra, Falsafat al-^cUqūba fī al-Figh al-Islāmī, Cairo: Ma^chad al-dirāsāt al-^carabiyyat al-^cāliya, 1966, and Ahmad Muḥammad Ibrāhīm, Al-Qisās, Cairo: Maktabat Nahḍat al-Sharq, 1944, for examples of comparative studies in the areas of penal and criminal law.

²³⁷A modern writer, ^cAwwā, states in op. cit. p. 232 that most modern scholars do not consider difference in religion as a bar to talion, and gives references to support this; similarly in the case of father and son (p. 234). Abū Zahra, in op. cit., p. 437, on the subject of diyāt, expresses the opinion that all human lives are of equal worth.

²³⁸Abū Zahra, op. cit., Part 2, pp. 290 and 372.

to practical considerations, i.e. the complex nature of today's societies. Thus Shaltut, although writing some thirty or forty years ago, is in many ways in harmony with more recent writers and is likely to have influenced many of them.²³⁹

4) Comparative Jurisprudence

a) Al-Ikhtilāf

The science of ikhtilāf (the study of the differences between the schools of law) dates back to the beginnings of the madhāhib. One modern scholar traces three main stages in its historical development.²⁴⁰ First came the polemical stage, where the main aim was to defend one's own school; writers such as Abū Yūsuf, al-Shaybānī and al-Shāfi'ī are cited as examples. Later on more impartial works emerged, such as Tabari's "Kitāb Ikhtilāf al-Fuqahā'" and Ibn Rushd's "Bidāyat al-Mujtahid". This type of work, which was the most common up until recent times, contained a simple juxtaposition of the various opinions, without usually giving the reasons for the differences. The third method, which is the most common in the modern age although having precedents in the classical period, usually bases itself on a particular school, and thus avoids much of the cumbersome repetition involved in an exhaustive comparison of all four schools on all

²³⁹ Awwā, for example, refers to Shaltut's work on several occasions, eg. op. cit., Chapter 3, fns. 42, 46, 49, 50 etc.

²⁴⁰ Y. Linant de Bellefonds, La Méthode Comparative en Droit Musulman, in Revue Internationale de Droit Comparé (22ième année), pp. 465-75.

points; attention is drawn to points of divergence and convergence in a style approximating to modern comparative methods. An outstanding example in the classical age is the Hanbalī scholar Ibn Qudāma's "Al-Mughnī". While there was a scarcity of such works from the sixteenth to the beginning of the present century, interest in this area has greatly increased during this century.²⁴¹

One could advance many reasons for this renewed interest; the schools became less geographically self-contained due to improved communications; it was part of the Arab-Islamic revival which pervaded all areas of scholarship; and the idea that one must confine oneself to a particular madhhab was losing ground as Muhammad ʿAbduh and others claimed the right to practice takhayyur or talfīq, and rebelled against all manifestations of the spirit of sectarianism.

Shaltut's interest in the study of comparative jurisprudence is related to his work in the area of taqrīb, which we described in Chapter one. In an introductory section of "Mugāranat al-Madhāhib fi'l-Fiqh", it is stated that one of the aims of pointing out the areas of difference is so that one may choose between them with complete impartiality, "having stripped oneself of the madhhabiyya to which one has become accustomed". If the student is unable to do this, Shaltut advises against his embarking on comparative jurisprudence, for in that case he would

²⁴¹ Ibid., p. 470.

be like a judge who is giving judgement between a friend and an enemy.²⁴²

Shaltut talks of the objections to the study of comparative jurisprudence which arise from the slavish adherence to taglīd, and the unwillingness to see any classical authority criticised. Some have objected, for example, that if one performed the different parts of wudū' according to the teachings of different schools, one's wudū' would not in fact be valid (sahīh) according to any of them. Thus "comparison" would be a mere theoretical exercise of no practical value. As for the qāḍī, they argue that he is in any case bound to give judgement according to his own madhhab, therefore comparison would be of no use there either.

Shaltut attributes these opinions to the spirit of sectarianism, and feels that this attitude has deprived people of "malakat al-figh" (the aptitude for jurisprudence/understanding). Those people who advocate strict adherence to a single madhhab put themselves in a position where they are forced to defend even the weak opinions of their imāms, or those which go against the Qur'an and the Sunna. It is pointed out that neither God nor the Prophet ordered Muslims to follow a particular madhhab. The classical scholar al-Kāmil allowed tatabbu' al-rukhas (seeking out the madhhab with the most lenient opinion on a given point), seeing no reason why one should not choose the easier course.²⁴³

²⁴²Muqaranat al-Madhahib fi'l-Figh, p. 2.

²⁴³Ibid., pp. 2-4.

In a section of "Agida wa-Shari'a" entitled: "The reasons for the differences of opinion among the scholars concerning the Qur'an and the Sunna",²⁴⁴ Shaltut gives a detailed description of the various causes of ikhtilāf. He states that the purpose of identifying these causes of difference is so that they may be a source of guidance to those who wish to understand the legal content of the Qur'an and the Sunna, both with regard to the actual opinions of the fuqahā' and the methods used.²⁴⁵

He divides the causes of ikhtilāf into those which can arise concerning both the Qur'an and Sunna, and those which are peculiar to the Sunna. He points out that many differences have their origins in linguistic considerations. For example, a word may have two different literal meanings, or a literal and a figurative meaning, or even a linguistic and a legal meaning. Shaltut gives specific examples to illustrate each possibility, indicating the practical consequences of differences of opinion. In the first case, for example, the Quranic word "qur'" can be understood to mean either the menstruation itself or the period of purity between menstruations, and the choice of meaning will materially affect the length of the ʿidda for a divorced or widowed woman.²⁴⁶ In the second, the Quranic stipulation that those who wage war on God and the Prophet should be "banished from the land" (5:33) can be taken to mean literal exile or

²⁴⁴Agida wa-Shari'a, pp. 506-41.

²⁴⁵Ibid., p. 506.

²⁴⁶Ibid., pp. 507-10.

understood metaphorically as imprisonment.²⁴⁷ In the third case, the description of "daughters" as one of the categories of muharramāt could be taken to apply only to one's legally recognised daughters, or it could apply also to illegitimate daughters who are daughters in the literal sense although not in the legal sense.²⁴⁸

Less straightforward are the cases which involve compound sentences. Certain particles in the Arabic language are particularly conducive to ambiguity. Shaltut singles out the particles aw, illā and fa in addition to the relative pronoun. The word illā, for example, can apply only to the clause immediately preceding it, or it can apply to any additional clauses preceding that one; in the case of those who are guilty of qadhf, the phrase "except those who repent" could be taken to apply to the immediately preceding description of them as fasiqūn, or it could additionally apply to the stipulation that their testimony should never be accepted. The same kind of ambiguity can arise with relative clauses.²⁴⁹

Differences can also arise from the application of different jurisprudential principles; this includes the whole area covered by the science of usūl, such as the relationship between khāṣṣ and ʿāmm, muqayyad and mutlaq, and the status of, e.g. ahādīth

²⁴⁷ Ibid., pp. 510-11.

²⁴⁸ Ibid., pp. 511-12.

²⁴⁹ Ibid., pp. 515-17 and 518-19.

āhād or qiyās vis-à-vis other sources.²⁵⁰ These principles often define the way in which two separate texts are to be related to one another. In the case of the quantity of radā^c which entails tahrīm, for example, the radā^c is mutlaq in the Qur'an, but various ahādīth give different numbers of radā^cāt. Apart from the process of tarjīh, whereby one hadīth is preferred to another, a jurist's opinion will depend on whether or not he accepts the possibility of a hadīth āhād "restricting" (yugayyid) the Qur'an.²⁵¹

In the case of the ʿidda of the pregnant woman who is widowed, there are two pertinent Quranic passages; one, which can be taken as referring to both pregnant widows and pregnant divorcees, states that the ʿidda is until the birth of the baby (65:4), and the other, concerning widows (who may or may not be pregnant), specifies the ʿidda as four months and ten days (2:234). Most scholars take the provision in 65:4, which was the later revealed of the two verses, as a restriction on 2:234, i.e. that the pregnancy of a widowed woman is regarded as a special circumstance which makes the waiting period longer or shorter according to the stage of pregnancy. Others, however, take the two verses in conjunction; 2:234 represents a restriction on 65:4 in that it lays down a minimum waiting period of four months and ten days which will obtain even if the baby is born before that time, while 65:4 represents a restriction on 2:234 in that the

²⁵⁰ Ibid., pp. 519-20.

²⁵¹ Ibid., pp. 520-21.

ʿidda of four months and ten days is to be extended if the baby is not yet born at the end of it.²⁵²

In the case of the Qurānic permission to marry believing (i.e. Muslim) slave girls (4:25), whether or not one acknowledges the mafḥūm (that which is implied)²⁵³ of the verse, will determine whether or not (a) one allows marriage to a slave girl when a free girl is available and (b) one allows marriage to a slave girl from ahl al-kitāb. The phraseology of the verse: "If any one of you cannot afford to marry free believing women, let him marry from among the believing women who are slaves", may be taken to imply that the permission to marry slave girls is conditional upon not being able to afford to marry free women, and furthermore that the slave must be a Muslim.²⁵⁴

Differences may also arise from the legal principles which were formulated by the classical fuḡahā'. For example, there is a ḡadīth which states that he who has been sold an animal which is musarrāh (i.e. one which has been left un milked for a period preceding the sale in order to make its milk appear more abundant than it really is), having milked the animal, has a choice of retaining it or returning it with a sāʿ (a measure equal to 2 1/3 cups) of dates by way of compensation for the milk taken. The Hanafis do not take the ḡadīth at its face value because of the

²⁵²Ibid., pp. 521-22.

²⁵³See Khallāf, op. cit., pp. 153-61 for a description of the concept of mafḥūm.

²⁵⁴Ibid., pp. 531-32.

legal principle that fungibles must be indemnified by their exact equivalent; one type of fungible cannot be considered compensation for another, since it is not possible to ascertain that they are of exactly the same value. Adherents to this principle will find some way to reject the hadīth or its significance.²⁵⁵

In the section dealing with differences which arise from the Sunna alone, it becomes clear that there are many more possible areas of difference concerning the Sunna than there are concerning the Qur'an, largely due to the differences which can arise concerning the riwāya.²⁵⁶ Secondly, differences can arise concerning the legislative status of a particular action of the Prophet's, e.g. it could apply to him alone or to the Muslims in general, and an action performed by him could be wājib, mandūb or mubīh.²⁵⁷ Thirdly, the Prophet's "silent approval" (tagrīr), can sometimes be ambiguous. For example, if accompanied by signs of pleasure, it is generally taken to indicate permissibility. However, the expression of pleasure may be in response to something else. A case in point is that of qifāya (determining someone's lineage by their facial characteristics). In a well-known hadīth, the Prophet expresses pleasure at the qā'if's confirmation that Usāma ibn Zayd is in fact the son of Zayd ibn Hāritha. However, while some may take this as confirmation of the

²⁵⁵ Ibid., pp. 532-33.

²⁵⁶ Ibid., p. 535.

²⁵⁷ Ibid., pp. 535-37.

legal validity of qiyāfa in establishing lineage, others argue that the Prophet was in fact pleased at the rebuttal of the charges of the unbelievers, who alleged on the basis of the difference in skin colour of the two men, that they were not related; in that case, his reaction could not be taken as having a bearing on the legal status of qiyāfa.²⁵⁸

This section on asbāb al-ikhtilāf is fairly complex and technical by its very nature. In many cases Shaltut gives an extremely detailed discussion of the differing opinions of the jurists, including their arguments and counterarguments. It may seem inappropriate to include such a section in a book which is intended for popular consumption. However, the provision of specific examples to illustrate each point makes most of the material reasonably comprehensible to the layman. Furthermore, there is a liberal dose of Shaltut's common sense in several places where he expresses his own opinion. In the case of the animal which is muṣarrāh, for example, he deplores the way in which some scholars interpret the hadīth, which is the source (asl), on the basis of legal principles which are derived from the sources themselves. In any case, the underlying aim of the hadīth is to protect people from deception; to reject the hadīth would be to withdraw this protection, which would be patently unjust. The specification of the quantity, i.e. a sā', avoids

²⁵⁸ Ibid., pp. 538-40.

wrangling over the exact quantity of the compensation, and provides a reasonable solution for all concerned.²⁵⁹

Elsewhere, in a discussion of the Quranic verse 5:33 in which the various punishments for waging war on God and His Prophet and spreading corruption are described, using the conjunction am between each of them, Shaltut upholds the opinion that they represent straightforward alternatives to be applied at the discretion of the judge, rather than each punishment applying to a specific crime according to the gravity thereof. He maintains that his opinion is in accordance with maṣlaḥa, since each crime has to be judged according to its particular circumstances; there are cases where a crime involving killing, for example, may be less heinous and destructive than a crime which does not involve killing, such as conspiring to revolt, or kidnapping women and children. It is essential in such cases that a suitably harsh deterrent should be available.²⁶⁰

Having summarised Shaltut's theoretical exposition of the causes of difference among jurists, we will observe the ways in which Shaltut reconciles or chooses between these different opinions in his own writings.

b) Shaltut's methods of conciliation and tarjīh²⁶¹

²⁵⁹Ibid., pp. 533-34.

²⁶⁰Ibid., pp. 512-15.

²⁶¹"Tarjīh" is the process of choosing between variant opinions, i.e. "preferring" one to another.

Although Shaltut wrote a specialist work on comparative jurisprudence, he sees the comparison of divergent opinions not as the prerogative of the religiously educated elite but as a natural process dictated by common sense, which can benefit ordinary Muslims. He therefore includes some discussion of variant opinions in his "Fatawa", and even in his "Tafsir".²⁶²

In the section on penal law, several questions discussed involved a comparison of variant opinions. On the subject of murder methods, for example, we observed that Shaltut rationalised Abū Hanīfa's divergent opinion concerning the murder weapon on the basis of the environment in which he lived (i.e. he could not have foreseen the diversity of murder weapons and ingenious methods which were to be later invented). Similarly, on the question of birth control, Shaltut attributes certain differences of opinion among fugahā' to their different environments; he argues that the classical scholars like al-Ghazālī, who were lenient on the subject, did not foresee an age when people would be less eager to marry and procreate.²⁶³

On the subject of the disagreement concerning the lawfulness of abortion before the quickening, Shaltut maintains that those who consider it lawful do so only because they restrict their interpretation of "life" to that of external manifestations such as movement and perceptibility. However, if those jurists were

²⁶²See, e.g., Fatawa, pp. 80-81, 92-95, 161-63 and 344-47, and Tafsir, pp. 305-30 *passim*.

²⁶³Qida wa-Shari'a, pp. 205-6.

aware of the medical evidence which shows that the sperm itself has the intrinsic quality of life, he argues that there would be no difference of opinion concerning abortion in the early stages, for no one can condone the destroying of life.²⁶⁴

In his section on civil and criminal liability,²⁶⁵ Shaltut treats several delicate legal questions involving divergent opinions. In addition to relating the differences between the madhāhib, he sometimes goes on to give the underlying reasons for the apparent disagreement, which may show that the disagreement is not really over a point of fiqh but due to different prevailing circumstances. Such is the case on the question of the liability of the self-employed artisan for indirect damages, involving some external factor (bi-ghayri fi'lihi), incurred in the course of his work. Abū Ḥanīfa is of the opinion that he is not liable for damages, even if they are caused by his negligence, since the contract only covers his work, and not al-hifz (duty to take care). The other jurists, however, see al-hifz as part of the contract and accordingly hold him responsible for such damages. Here, however, Shaltut points out that the different opinions are due to the changing times. While Abū Ḥanīfa lived in an age when men's honesty could largely be taken for granted, in later ages such a ruling might be a temptation to certain dishonest employees, who, in the knowledge that they

²⁶⁴ Ibid., pp. 203-4, and Fatawa, pp. 289-92.

²⁶⁵ ʿAqida wa-Shariʿa, pp. 392-429.

could not be held liable, could make false claims of having been robbed or having lost something, in order to fraudulently take possession of it. In fact later Hanafī scholars acknowledged the unsuitability of Abū Hanīfa's ruling in later times, and accordingly applied the rulings of other schools.²⁶⁶

On the next point, Shaltut shows how differences between fukahā' can be resolved by judging each case on its own merits. Where an employee causes damage by his own direct action, Abū Hanīfa holds him liable while the others do not, since Abū Hanīfa believes that the contract requires "al-ʿamal al-salīm" (i.e. that the work should not be faulty), while the others argue that it may be a question of unforeseeable damage caused by faulty equipment or goods. Here, Shaltut sees the solution as being to consult the appropriate experts who are qualified to judge whether it was a case of negligence or of faulty equipment in each individual case, and thus distinguish between foreseeable and unforeseeable damage. In the light of such an objective assessment, there would be no need for disagreement between the jurists, for it would be clear where the responsibility lay.²⁶⁷

On some points, such as the case of the man who kills an animal in self-defence,²⁶⁸ Shaltut does not attempt to reconcile the differing views in this way, but simply relates the various

²⁶⁶ Ibid., pp. 399-400; another point upon which "ʿurf" is responsible for differences of opinion is given on p. 397, the case of whether damages are payable for loss of usufruct.

²⁶⁷ Ibid., p. 400.

²⁶⁸ Ibid., p. 401.

opinions, briefly giving reasons for them. However, he makes it clear here and elsewhere that these differences of opinion can be taken as evidence of the extent of intellectual freedom enjoyed by Islamic scholars, and the great potential of the Shari'ca to adapt to changing circumstances. Many of these questions have no single correct answer, but one may reach a satisfactory conclusion by reviewing the opinions of the jurists in the light of the prevailing circumstances or maṣlaha.²⁶⁹ In two cases he cites the fact that later Hanafī scholars departed from the opinion of their imām and preferred instead opinions of some of the other schools, as evidence of a commendable lack of sectarian fanaticism.²⁷⁰

Thus his main aim seems to be to illustrate the nature of these differences of opinion, and to show that (a) they are not serious disagreements on essential matters of principle, and (b) opposing viewpoints can be equally valid in different circumstances. It is for this last reason that Shaltut does not usually find it necessary to offer his own opinion on the points discussed.

The material contained in "Muḡāranat al-Madhāhib fi'l-Fiqh" is, as one would expect in a text-book for students at the Kulliyat al-Shari'ca, dealt with in a more technical and complex way. A number of selected issues are discussed, ranging from aspects of wuḍū' to types of divorce and types of evidence

²⁶⁹See e.g. ibid., pp. 391, 397 and 401.

²⁷⁰Ibid., pp. 398 and 400.

acceptable in court. Shaltut's method is to relate the opinions of the madhāhib first, and then list the authorities or evidence upon which they base their opinions, usually under a separate heading: "Adilla". Following this section, Shaltut will usually produce counterarguments to those opinions with which he does not agree. Finally he generally gives his own opinion, although the matter is sometimes left open for the student to draw his own conclusions.²⁷¹ Often in the course of his conclusion he will mention the current practice of Egyptian law in support of his case.²⁷²

The aim of these comparative studies is not so much to conciliate the differences of opinion as to select the preferable one, or indeed to discard them all in favour of a new opinion. Notwithstanding the often complex nature of the arguments and counterarguments presented, Shaltut's conclusions often base themselves primarily on maṣlaḥa or common sense.

In the case of the status of the wife of the missing man,²⁷³ for example, he relates the detailed opinions of the madhāhib with regard to the length of time which should be allowed to elapse before she can be considered a widow, together with the aḥādīth and legal principles relied on in each case. The opinions vary between four years, based on a report from 'Umar ibn al-Khaṭṭāb, and the natural lifespan of the missing man. Shaltut

²⁷¹E.g. Muqarana, p. 38.

²⁷²Ibid., pp. 96, 112, 123 and 127.

²⁷³Ibid., pp. 117-24.

himself, however, prefers the opinion that the matter should be referred to the qāḍī in view of the fact that different circumstances give rise to different probabilities. He points out that it is in accordance with maṣlaḥa that a flexible attitude should be taken, for if a woman should be asked to wait indefinitely she might fall into temptation. Moreover in the modern age improved communications should be taken into account. 'Umar's specification of four years is in any case seen as a piece of ijtihād based on the particular circumstances which then obtained.²⁷⁴

On the question of "Giving judgement on the basis of circumstantial evidence"²⁷⁵ Shaltut relates the various degrees to which each madhhab acknowledges circumstantial evidence. In his conclusion he argues that many types of circumstantial evidence are extremely reliable, and that no type of evidence, even those which are universally recognised such as confession or testimony, can provide absolute certainty. Ibn Qutayba is quoted in support of the view that the judge should seek to establish the truth by whatever means are available to him, including circumstantial evidence. Shaltut argues that it is a natural principle which has been applied throughout history, and is in accordance with the spirit of the Shari'a which seeks to establish justice by all possible means.²⁷⁶

²⁷⁴Ibid., p. 123.

²⁷⁵Ibid., pp. 137-41.

²⁷⁶Ibid., pp. 140-41.

In the case of the simultaneous pronouncement of the triple, irrevocable divorce, Shaltut states in his concluding passage that if one were to cast aside all the evidence and view the question solely with regard to its consequences, it would be clear that to consider such a pronouncement as one revocable divorce is far less harmful in its effects than to consider it as an irrevocable triple divorce. Thus one should select "the lesser of two evils".²⁷⁷

The issue of the validity of non-Muslims' testimony against Muslims²⁷⁸ gives us an example of Shaltut's departure from the opinions of the madhāhib, none of whom acknowledge such testimony, with the sole exception of the Malikis who acknowledge the testimony of a non-Muslim doctor in certain circumstances. Shaltut refutes the attempts of jurists to restrict the significance of Qur'an 5:106 which allows non-Muslims to be witnesses to a dying man's testimony when Muslims are on a journey. He believes that this verse simply provides evidence of the permissibility of accepting the testimony of non-Muslims. He agrees with Ibn Qutayba, whom he quotes as saying that the testimony of non-Muslims can be accepted where necessary, whether or not one is on a journey. Shaltut believes that the only stipulation for the acceptance of such testimony is that the witness should be of truthful and reliable character; he does not acknowledge any dalīl which prevents the acceptance of the

²⁷⁷Ibid., p. 89.

²⁷⁸Ibid., pp. 135-37.

testimony of non-Muslims, and believes the jurists have been influenced by considerations arising from their own environments rather than from any firm evidence or logical argument.

c) Summary

In the area of comparative law Shaltut demonstrates his intellectual flexibility by working both at the level of classical scholarship and at the level of practical common sense which is in accordance with the more direct approach required in the modern age.

We have seen how he mitigates differences of opinion by having reference to the environment of particular scholars, and by calling for the use of discrimination in individual cases, rather than a blanket ruling. In this way he opposes intellectual laziness while at the same time highlighting the flexibility of the Shari'a.

"Muqarānat al-Madhāhib fi'l-Fiqh" is not meant to be an exhaustive comparative study but an exemplary selection which aims to provoke the student to further study, as is evident from Shaltut's introduction and some of his concluding comments.²⁷⁹ His work in this area illustrates a quality which we remarked upon in Chapter One, namely his desire to encourage people to think for themselves rather than to take things on trust or accept them without fully understanding the reasons behind them.

²⁷⁹See e.g. pp. 2, 38 and 80.

CHAPTER FOURISLAMIC SOCIETY1) The Ideal Paradigm

For Shaltut there is no question of discussing social issues outside the context of religion, for Islam establishes not only the relationship between man and God but also that between man and his fellow man.¹ Shaltut writes: "It is a social religion above all else"; if a man's devotional acts do not instil in him a social conscience, then his worship is useless.² Shaltut believes that the only effective social and legal reform is that which builds on peoples' religious belief and so appeals to their consciences, not that which is imposed from above, failing to command the true support of the people.³

a) The "Identity" of the Islamic Umma

Shaltut expresses his conception of the individuality of the Islamic umma by using the word shakhsiyya (personality/identity). He believes that societies have a moral identity (shakhsiyya ma'naviyya) as well as a purely physical one (shakhsiyya hissiyya) which is determined by such factors as geography and demography. It is the shakhsiyya ma'naviyya which gives a society

¹Min Huda al-Qur'an, p. 233.

²Ibid., p. 234 and Min Tawjihat al-Islam, p. 105.

³Min Huda al-Qur'an, pp. 234-35.

its feelings of self-worth and self-respect;⁴ if it lacks a strong sense of its own identity, it becomes vulnerable to attack from other nations, no matter how favourable its physical characteristics may be.⁵

Whenever peoples' sense of identity has rested on such arbitrary considerations as race or geographical area, this has resulted in a spirit of selfishness which has led ultimately to war.⁶ When nations rely on man-made ideologies, the emphasis on material rather than spiritual considerations results in conflicts of interests and the oppression of certain sections of humanity by others.⁷

Thus, for Shaltut, a religious basis, which acknowledges the equality of all men before God, is essential for a strong and stable society. The very root meaning of the word muslim itself shows that faith in God is the cornerstone of the Islamic umma's identity; Ibrāhīm prayed that his progeny should be a community which surrenders to God ("ummataṁ muslimataṁ laka" - 2:28).⁸

While certain aspects of the umma's identity which are subject to human experience and endeavour, such as its activities in the spheres of agriculture, industry and economics, may be common to many societies, its uniqueness lies in the divinely inspired

⁴Min Tawjihāt al-Islam, p. 56.

⁵Ibid., p. 57, and Min Huda al-Qur'an, p. 252.

⁶Min Huda al-Qur'an, p. 252.

⁷Min Tawjihāt al-Islam, pp. 57-58.

⁸Ibid., p. 538.

Islamic dimension of its identity.⁹ This identity, however, embraces many aspects of the society's existence; at the centre are creed and worship, but it extends to the attitude towards wealth, knowledge, honour, health, legislation, government and morals, as well as the everyday manners and customs which go to make up one's culture, for the Qur'an contains advice on such wide-ranging things as visiting peoples' houses, backbiting, behaviour towards the opposite sex, receiving and passing on news, etc.¹⁰

Shaltut feels that whenever this Islamic dimension is neglected, Muslim nations become disunited, weak and vulnerable. It is because they forgot their God-given identity that the Muslim nations became subservient to other nations and effectively lost their own identity, becoming absorbed in that of others and following them in all spheres of life - military, economic, political, and even in the areas of legislation and culture.¹¹

Shaltut urges Muslims to return to their true identity ("al-ʿūdū ilā shakhsīyyatikum");¹² he laments the fact that the word "Muslim" has for some become a mere label to denote a certain group of people, instead of a deeply-rooted system of religious

⁹Fatawa, pp. 182-85.

¹⁰Min Tawjihāt al-Islām, pp. 66-78.

¹¹Ibid., pp. 59-60.

¹²Ibid., pp. 55 and 60.

belief and worship which unites all those who adhere to it.¹³ The Qur'an itself gives advice on how Muslims can preserve their identity and independence; it warns against taking enemies of Islam as companions, and it describes those weak or hypocritical Muslims who hasten to mix with them, and thus become identified with them.¹⁴

The concept of Muslim unity is of supreme importance for Shaltut, as for all Muslim reformers, both on the level of international relations, with which we shall be dealing presently, and within the individual Muslim nation. The theme of social solidarity occurs frequently in Shaltut's writings.

b) Social Solidarity

In an article entitled "Social Solidarity in Islam" ("Al-Tadāmun al-Ijtimā'ī fi nazār al-Islām"), Shaltut states that the formation of human societies is a natural process arising from man's need for mutual aid; however, Islam establishes a strong emotional bond of religious brotherhood that creates a more close-knit society. In the Qur'an and the Sunna, this brotherhood is elevated over blood ties.¹⁵ If people are strong in their faith, this sense of brotherhood will inevitably exist.¹⁶

¹³ Ibid., pp. 53 and 538-41.

¹⁴ Ibid., pp. 262-63.

¹⁵ Min Huda al-Qur'an, pp. 208-9.

¹⁶ Agida wa-Shari'a, p. 43.

Social solidarity is a corollary of that brotherhood, and may be expressed materially or morally.¹⁷ The material aspect consists of helping those in need and contributing towards the establishment of necessary public utilities; in the Qur'an this kind of help is mentioned often in the form of ihsān, zakāh, sadaqa, hagg, infāq fi sabīl Allāh, etc. The act of giving is important not only for the recipient but also for the giver; even the poor person should try to give something, "in order to have the experience of giving", for this will increase his feelings of self-respect and perhaps inspire him to greater efforts to change his own situation.¹⁸

However, material aid is not sufficient on its own. In order for a society to be healthy, there must prevail a sense of corporate moral responsibility; each member of the community must take it upon himself to "command what is good and forbid what is evil". From Muhammad 'Abduh's time on, modern reformers have stressed the importance of this Quranic precept; it is not enough just to do good and abstain from evil oneself - one must take responsibility for giving advice to others when necessary.

In an article entitled: "Reprehensible actions (al-munkarāt) and their effect on society",¹⁹ Shaltut describes the three methods of changing munkarāt, based on a well known hadīth: with

¹⁷Min Huda al-Qur'an, p. 210, and Min Tawjihāt al-Islam, p. 297.

¹⁸ʿAqida wa-Shariʿa, p. 436, and Fatawa, p. 156.

¹⁹Min Tawjihāt al-Islam, pp. 194-201.

the hand, the voice or the heart. He has practical suggestions in each case. In the first two cases he refers specifically to those who are in the best position to effect changes, namely those in authority whether in be on the national level, in the religious sense, in the sphere of education or within the family. In the second category (changing things with the voice) he mentions the special responsibility of broadcasters, journalists and publishers. As for the third category (changing things with the heart), Shaltut emphatically rejects the notion that this is a purely passive feeling of disapproval, for otherwise it could not be described as "changing" at all. At the very least this should involve cutting all links with the perpetrator of munkarāt, so that he will feel isolated and rejected, and perhaps be thus encouraged to review his behaviour.

In the context of a society Shaltut names this active sense of responsibility as "irshād" (guidance), and he points out that this guidance will only be fruitful if it meets with receptivity ("istimāc"), and members of the society are not too proud to take advice or to admit their errors.²⁰ He points to the early Muslim community in Medina as an example of a society in which these two factors are strong, for then even the heads of state could be corrected by ordinary people. He regrets that in later ages this sense of responsibility waned, and people became afraid of angering others by speaking out, and preferred to acquiesce in munkarāt rather than risk losing their wealth and influence,

²⁰ Min Huda al-Qur'an, pp. 210-11.

etc.²¹ This attitude has resulted in the rise of the cult of selfish individualism to the point where base actions and ideas are defended in the name of "freedom of opinion".²²

The Qur'an relates how former communities have perished due to an absence of this sense of moral responsibility, and peoples' failure to discourage one another from reprehensible actions; for those who remain silent are in reality helping the spread of these actions, and deserve retribution along with the actual perpetrators.²³

Shaltut is acutely aware of the fact that a society can only be as good as the individuals of which it consists:

Society is, in reality, no more than the individuals which are its bricks, for it is of these that it is built; and individuals are, in reality, no more than the society which they go to make up; its happiness is their happiness, its well-being is their well-being, its suffering is their suffering, and when it is corrupt, they are corrupt. Thus, in order to study the basis upon which society is built, one must study the bricks of which it is constructed.²⁴

If society goes astray, it is because individuals have lost their sense of moral responsibility, and in order to reform society, one must first reform the individual through education.²⁵

²¹ Agida wa-Shari'a, pp. 437-38.

²² Min Tawjihat al-Islam, p. 299.

²³ Ibid., pp. 196-98; the case is similar with those who fail to attempt to reconcile estranged parties (islāh dhāt al-bayn), see Tafsir, p. 564.

²⁴ Min Huda al-Qur'an, p. 172; see also Min Tawjihat al-Islam, pp. 295, 74 and 555 for similar descriptions.

²⁵ Min Huda al-Qur'an, p. 211 and Min Tawjihat al-Islam, p. 555.

However, Shaltut also sees the ideal Islamic society as an organic entity with "a throbbing heart and a living soul".²⁶

He sees religious faith as a vital factor in determining the relationship between the individual and society. The two aspects of a Muslim's behaviour - the individual and the social - are embodied in Sūrat al-ʿAsr; as individuals, men are asked to believe and do good works, but they are also asked to exhort one another to good actions and to patience. It is not enough just to work out one's own salvation; one has a moral duty to help others on their way too.²⁷ We will see when we observe Shaltut's views on political theory that this moral duty has implications for forms of government in terms of popular representation and accountability.²⁸

c) The Islamic State

i) Political theory

Shaltut is not concerned with the body of Islamic political theory that was formulated in the middle ages by scholars like al-Mawardī:

Islamic political principles...can be discerned from the Qur'an and the authentic Sunna, and guidance can be obtained from their practical application by the Prophet (Peace be upon him) and the Rightly-guided Caliphs after him.

However, we should not confuse these principles, which are based on the primary sources

²⁶Min Huda al-Qur'an, p. 289.

²⁷Min Tawjihāt al-Islām, p. 296.

²⁸Ibid., p. 558.

of Islam, with the political principles which were an expression of the actual state of government and its institutions after the Muslims had become disunited...²⁹

He goes on to say that he wishes to speak not of any actual Muslim government but of the ideal form of government as embodied in the general principles of Islam.

Shaltut states that there is no abstract concept of "state" in Islam:

Islam is not concerned with hypothetical or illusory studies on the state; it simply lays down social, economic and political rulings which are based on the Creator's knowledge of men's interests and what benefits or harms them.³⁰

The state has a definite moral character. The paramount principle is the inseparability of dīn and dawla: "You could only separate dīn and dawla in Islam if you were able to separate a soul from a man's body without killing him."³¹

However, Shaltut is not just an idealist but a man who is apparently willing to recognise and, if possible, endorse the status quo, if this appears to be in the Muslims' interests. A striking example of this is his attitude towards Egyptian and Arab nationalism. Describing the foundations of the Islamic state, he maintains that it is not based on considerations of race, nationality or geographical accident, for this would be placing restrictions on Islam's universal appeal. In the Islamic

²⁹Ibid., p. 551.

³⁰Ibid., p. 553.

³¹Ibid., p. 554.

state, unity is based on something higher than this, namely religious brotherhood.³² This view is of course a corollary of the inseparability of dīn and dawla. However, he acknowledges the possibility of the existence of separate Muslim communities living in different lands, each with its own ruler and each having a state "with all the characteristics of the Islamic state, as is the case today". In this case the strong bonds which should be established between them would be sufficient to fulfil the intention of the Quranic declaration: "This nation of yours is indeed one nation" (21:92).³³ Shaltut uses the term "Islamic nationalism" to describe nationalism in the Muslim countries generally, though perhaps not insignificantly this comes in the context of resistance to foreign control and interference.³⁴

He takes a pride in his own country, describing it as "the qibla of Arabism and Islam";³⁵ he mentions Arabism and Islam together in several places,³⁶ and one has the impression that the phrase is often used for its emotive value rather than in any strict theoretical sense, especially as some of these references occur within speeches delivered by Shaltut on various occasions.

³²c Agida wa-Shari'a, p. 433.

³³ Min Tawjihat al-Islam, p. 557.

³⁴ Al-Fatawa, pp. 280-81; cf. Albert Hourani's statement: "It was the British occupation which fused Islamic modernism with Egyptian nationalism", in Arabic Thought in the Liberal Age: 1798-1939, London: Oxford University Press, 1970, p. 194.

³⁵ Min Tawjihat al-Islam, p. 272.

³⁶ Ibid., pp. 523, 539 and 544.

Elsewhere, however, Shaltut refers to the special relationship which exists between Arabism and Islam in view of the importance of the Qur'an for the Arabic language; he further erodes the distinction between the two by hinting that Arabism is a spiritual rather than a national or regional phenomenon, having a profound influence on intellectual and emotional development.³⁷

Shaltut welcomed the declaration of the United Arab Republic and expressed the hope that it would ultimately embrace all the Muslim peoples.³⁸ Similarly, while describing the Qur'an as the Muslims' constitution, he welcomes the new Egyptian constitution.³⁹ Thus he shows himself to be a pragmatist as well as an idealist.

ii) The principles of government

Shaltut affirms that in Islam, sovereignty belongs to God alone; as man is God's vicegerent on earth, political authorities can only be representatives (nuwwāb) of God, and the agents (wukalā') of the people - "faithful servants" of the umma. Men are on an equal footing in their relationship to their Creator, and were not meant to have sovereignty over one another; the way in which the Qur'an addresses its injunctions to all the Muslims

³⁷Shaltut, Amānat al-Qawmiyyat al-ʿArabiyya fī Dhimmat al-Azhar, in Majallat al-Azhar, 33 (1961/62), pp. 655-56.

³⁸Ibid., p. 544.

³⁹See ibid., pp. 553, 556 and 545-49.

(eg. "Ya ayyuhā alladhīna āmanu", "Ya ayyuhā al-nās"), shows that authority is vested in the umma as a whole.⁴⁰

All this means that any kind of tyranny or despotism is absolutely contrary to Islamic principles; on a practical level, the principle of shūrā (consultation) as laid down in the Qur'an and Sunna, counteracts the possibility of despotic government.⁴¹ Shaltut attaches much importance to this principle, and lists it as one of the four foundations of the Islamic state along with religious brotherhood, social solidarity and justice.⁴² He refers to the context of the Quranic phrase: "Wa amruhum shūrā baynahum" ("...who conduct their affairs by mutual consent..." - 42:38), where this quality is listed among others such as responding to the Lord, attending to prayers and spending for the sake of God, thus demonstrating its importance as an eternal religious principle. Furthermore, the Prophet was asked to consult his companions (3:159), and reproached on one occasion when he failed to do so (9:67-68).⁴³

These texts, together with various examples of the actualisation of the principle of shūrā in the Prophet's lifetime which Shaltut relates, show that even such an eminent person as God's messenger does not wield absolute authority.⁴⁴ This

⁴⁰Ibid., pp. 560-61 and 567-68.

⁴¹Ibid., p. 562.

⁴²cAqida wa-Shari'a, pp. 438-44.

⁴³Ibid., pp. 439-40.

⁴⁴Min Tawjihāt al-Islam, pp. 562-63.

openness to advice on the part of the head of state continued under the first Caliphs, when men were free to express their opinions. Although no systematic implementation of the process of shūrā was laid down in the Qur'an or the Sunna,

it was a natural process; the Prophet or Caliph would assemble his companions, put the issue to them, and they would express their views; then either the majority opinion or the strongest argument would be put into effect.⁴⁵

Shaltut maintains that this flexibility is in the Muslims' interests, since different circumstances may require different methods of implementing shūrā; but although the form and even the extent of application of shūrā are undetermined, the principle remains inviolable.⁴⁶ He rather optimistically opines that so long as the aim of shūrā is the realisation of justice and the unity and prosperity of the umma, then the actual means will be "a simple affair".⁴⁷

Shaltut is aware that the principle of shūrā has been abused in the past, and insists that the consultative process must be a genuine and effective one, not just a screen for autocrats to hide behind, nor a balm to placate others; any form of intimidation or bribery will of course invalidate the process. It should be no less of a reality than the prayer and spending with which it is mentioned in the Qur'an.⁴⁸

⁴⁵cAgida wa-Shari'a, p. 440.

⁴⁶Min Tawjihāt al-Islam, p. 562.

⁴⁷cAgida wa-Shari'a, p. 441.

⁴⁸Ibid., pp. 441-42.

While on the subject of shūrā, Shaltut talks about ūlū al-amr, whom the Qur'an asks Muslims to obey (4:59). These are the acknowledged experts in all areas of life including the military, legal, financial and political.⁴⁹ Religious knowledge, in this regard, is just one branch of specialisation among others.⁵⁰ Shaltut identifies ūlū al-amr with ahl al-ijmā'; whatever they agree upon, whether unanimously or by majority consensus, is to be observed by the Muslims until such time as renewed circumstances require that the ruling be renewed.⁵¹

However, this does not mean that there is a group of people who exercise unconditional authority over the populace, for this would contravene the principle that authority is vested in the umma as a whole. Any authority remains a wakīl of the people, who have the right not only to choose their head of state (who may be an individual or a group), but to supervise his public and private actions (inasmuch as he must be morally upright in order to be worthy of office), and to dismiss him, if necessary by force, if he fails in his duties.⁵²

The head of state is subject to the Shari'a like anyone else; even the Prophet used to exact retaliation on himself, and the Rāshidūn Caliphs reinforced the principle: "La tā'ata li-makhlūq fi ma'siyat al-khāliq" (no man is to be obeyed if this involves

⁴⁹Ibid., p. 443 and Min Tawjihāt al-Islām, p. 563.

⁵⁰Qaḍiyyat al-Shari'a, p. 444.

⁵¹Ibid., p. 443.

⁵²Min Tawjihāt al-Islām, pp. 563-64 and 558.

disobeying God). There can be no system of patronage to bolster personal power in an Islamic state; any authorities appointed by the head of state in his capacity of representative of the people are working not just for him but for the umma. Therefore his dismissal does not entail their dismissal.⁵³

Thus Shaltut is emphatic in his rejection of the patterns of authority that were evolved in the Islamic empire, and of their subsequent justification in the annals of the classical political theorists, for the concept of unconditional obedience robbed the Muslims of the principle of shūrā.⁵⁴

iii) Forms of government

Shaltut dismisses communism, capitalism and democracy as unsatisfactory man-made-systems; the first two can be seen to contradict the economic values of Islam, which recognises private ownership but does not countenance extreme wealth, while the third invests sovereignty in the people.⁵⁵ For obvious reasons it is difficult for a Muslim to wholeheartedly endorse any man-made system. However, socialism is conspicuously absent from Shaltut's list of failed systems. Indeed, on the subject of ribā (usurious interest), he states that with the growing disillusionment with capitalism,

⁵³ Ibid., p. 564-5.

⁵⁴ Agida wa Shari'a, p. 444.

⁵⁵ Min Tawjihāt al-Islām, pp. 63 and 566-67, and Fatawa, pp. 398-99.

the world is turning to socialism, which does not allow a small group of people to control wealth and enjoy the privileges of status and influence that it brings, while the hard-working majority increase the wealth of the former by the sweat of their brow, earning for themselves only the barest essentials as regards food, housing and clothing. ⁵⁶

Of course Shaltut has in mind a particular type of socialism, namely Arab socialism, rather than Marxist socialism, which is in any case hostile towards religion. Even so, at first sight it may seem strange that a man of religion should espouse a system which does not have religious origins. It should be realised, though, that if Arab socialists are eclectic in their interpretation of socialism, then deeply religious Muslims are even more so. In fact, Shaltut's usage of the word ishtirākiyya leads us to believe that he sometimes envisages it as a kind of ideal paradigm, roughly approximating in meaning to "social justice". On one occasion he contrasts "socialism" as a political school of thought with the true "socialism" of Islam:

However much the advocates of socialism raise their heads and proclaim it abroad, you will not find in what they say or in their actual lives anything approximating to that socialism which emanates from the depths of faith, and which Islam has made into a way of life...⁵⁷

Again, when he states that sadaqa "fulfils the noblest aims of socialism",⁵⁸ he is certainly using the term in this idealised

⁵⁶Tafsir, p. 149.

⁵⁷ʿAqida wa-Shariʿa, p. 95.

⁵⁸Fatawa, p. 114.

sense, for Shaltut would be the last person to judge Islam by the criterion of any man-made system.

In a long article entitled "Socialism and Islam",⁵⁹ it is apparent that Shaltut sees Islam and socialism as wholly compatible. He concentrates on the theme of social solidarity, reiterating many of the ideas we have already outlined on the subject, including the concept of moral solidarity which he sees as deriving exclusively from Islam. On the subject of material solidarity, he stresses the importance of the development of the sources of wealth, i.e. agriculture, industry and commerce. He sees it as a religious obligation for the nation to be self-sufficient with regard to its material needs, thus avoiding the necessity for any foreign interference.⁶⁰ He further states that these three realms of activity must be coordinated, so that one is not allowed to develop at the expense of the others, "even if this means transforming agricultural land into commercial or industrial concerns, according to the country's needs". Thus he envisages an extensive role for the state in organising the domestic economy, including if necessary the confiscation or

⁵⁹Published in Al-Jumhūriyya, December 22nd 1961. This article has aroused some interest as it has been reproduced in French under the title of Le Socialisme de l'Islam, in Orient, 5 (1961), No. 20 (4ieme trimestre), pp. 163-74 and the bulk of it has been reproduced in English in K.H. Karpat (ed.), Political and Social Thought in the Contemporary Middle East, London: Pall Mall Press, 1968, pp. 126-32. The English version was republished in a slightly abridged form in J. Donohue and J. Esposito (eds.), Islam in Transition, pp. 99-102. I was unable to obtain the original article and have based my comments on the French translation which is unabridged.

⁶⁰Le Socialisme de l'Islam, p. 170.

limitation of land, for which he cites precedents in Islamic history.⁶¹ Various Quranic quotes are given to illustrate Islam's stress on charity and spending, and to show that all material possessions belong to God and are only held in trust by man, who is therefore obliged to observe the needs of the community in their disposal.⁶²

With its strongly religious tone, this article does not represent a departure from any of Shaltut's formerly professed views on the subject, apart from being more explicit on the subject of land confiscation. Indeed, parts of it are reproduced verbatim from some of his other published works.⁶³ Of Shaltut's support of socialism in general, one could say that it illustrates his pragmatic side; it is understandable that he should support a system which had been adopted by his country and others as a means of resisting imperialism and achieving social and economic justice, and which could therefore be considered to be in the best interests of those countries at that time.

iv) International relations and relations with non-Muslims

Relations with non-Muslims are of obvious significance for international relations as well as for internal politics and everyday human relations. In a section entitled "International

⁶¹Ibid., pp. 171-72.

⁶²Ibid., 172-74.

⁶³See, e.g., Min Huda al-Qur'an, p. 210, passage corresponding to ibid., pp. 169-70.

Relations in Islam", Shaltut states that peace is the norm (al-hālat al-asliyya) in all human relationships in Islam. Islam stresses the unity of all mankind; all that is asked of non-Muslims is that they refrain from harming Islam or the Muslims. In this case, they can be considered "brothers in humanity", and all can work together for the general good, each propagating his own religion non-aggressively. Shaltut stresses that there can be no compulsion in religion, and that Islam sanctions only defensive wars, i.e. in response to some provocation, whether it be direct aggression, oppression of Muslims, violation of a treaty, etc.⁶⁴

Shaltut confirms the right of the Muslims to conclude treaties or alliances with non-Muslims, citing as examples the Constitution of Medina (which granted freedom of worship to the Jews), the treaty with the Christian tribe of Najrān, which was a permanent one, and the Treaty of Hudaibiyya, concluded with the idolaters of Quraysh, which provides an example of a temporary treaty.⁶⁵ Elsewhere, however, Shaltut points out that all treaties with the mushrikūn were cancelled by the barā'a (freedom from obligation) announced in the first verse of Sūrat al-Tawba, so that it is now no longer possible to enter into agreements with them.⁶⁶

⁶⁴ Acīda wa-Sharī'a, pp. 452-53.

⁶⁵ Ibid., p. 456.

⁶⁶ Tafsīr, p. 612.

Shaltut usually stresses the possibility of good relations with ahl-al-kitāb; the Qur'an enjoins justice and even kindness (birr) towards them, and the permission to marry their women and eat their food is seen as highly significant, especially in view of the closeness and sacredness of the marriage relationship.⁶⁷

Shaltut disagrees with those who believe that the permission to marry the women of ahl al-kitāb was restricted to the time of the revelation, either due to a temporary shortage of Muslim women or because the Christians have become worse since that time with regard to worshipping Christ, and this is tantamount to shirk so they should be classified as mushrikūn. Shaltut refutes this last idea, since there is nothing in the Qur'an to suggest it was a temporary licence. Furthermore, even Christians who believe that God is the third of three, or that Jesus is His son, or that Muḥammad is not His messenger, are not polytheists since all this does not negate their belief in God and in prophethood and revelation. Shaltut then goes on to give, in his opinion, the reason behind this permission - namely that this should be a means of spreading Islam, so that Christians and Jews should have a chance to learn about Islam at first hand in an atmosphere of love and friendship.⁶⁸

On the religious level, while abhorring certain beliefs which have evolved with regard to Jesus, he nevertheless insists that Christians retain their status of ahl al-kitāb by virtue of their

⁶⁷Ibid., p. 530 and 295.

⁶⁸Tafsir, pp. 295-96.

basic belief in God and revelation.⁶⁹ Moreover the basic creed is the same in all the divine religions, and the Qur'an warns against any religious community considering themselves superior by virtue of following a particular prophet, while the true criterion is faith and good works.⁷⁰ Shaltut envisages a society in which Muslims and ahl al-kitāb have equal rights and duties and live in mutual cooperation.⁷¹

However, Shaltut does not wholly refrain from polemics with regard to ahl al-kitāb. It is perhaps inevitable that he should refer to the situation in the Prophet's lifetime, when the hostility with which his mission met led, among other things, to the Quranic order to Muhammad to challenge the Christians to a mutual cursing regarding the nature of Jesus. He also describes the various ruses and arguments which the Jews and Christians employed in their opposition to Muhammad's message.⁷²

While upholding Islam's respect for religious freedom on the one hand, Shaltut does on one or two occasions fall into the trap of identifying the powers of European colonialism with Christianity; he does this in the course of a bitter tirade against modern warfare methods and so-called world peace, "whose anniversary is celebrated every year by the liars and slanderers who claim to follow the messenger of peace (i.e. Jesus)..."-

⁶⁹Ibid., pp. 94-95.

⁷⁰cAqida wa-Shari'a, p. 44, and Min Tawjihāt al-Islam, p. 54.

⁷¹Min Tawjihāt al-Islam, p. 93.

⁷²Tafsir, pp. 96-99.

although it is apparent from the use of the word "claim" that he does not regard them as true Christians.⁷³ It is clear from a similar passage that he is motivated here by a resentment of the Christians' claim that theirs is the peace-loving religion par excellence, and their assertion that Islam was spread by the sword, while in fact wars are being propagated by them.⁷⁴

Despite the permission to associate with ahl al-kitāb, Shaltut acknowledges that Muslim unity sometimes requires caution in such relations; the Qur'an itself warns of the dangers of following certain of them (3:100).⁷⁵ However, he does not disparage them en masse. The Quranic verse which states that whoever takes the Jews and Christians as awliyā'⁷⁶ is one of them (5:51), is quoted among a list of Quranic warnings against "enemies of Islam"; from this it would appear likely that Shaltut takes it to apply only to those Jews and Christians who are hostile towards Islam, and not to Jews and Christians per se.⁷⁷ There is no hint that any of these passages should be taken as applying only in the Prophet's lifetime, for that would be contrary to the tenet of al-cibra bi-cumūm al-lafz lā bi-khusūs al-sabab, applied by Shaltut and the Muhammad ^cAbduh school of tafsīr in general.

⁷³Min Tawjihāt al-Islām, p. 238.

⁷⁴Min Huda al-Qur'an, p. 325.

⁷⁵Min Tawjihāt al-Islām, p. 540.

⁷⁶This word is certainly meant to denote more than just "friends" as is given in some English translations of the Qur'an; perhaps a better rendering would be "close allies".

⁷⁷Min Tawjihāt al-Islām, p. 262.

With regard to mushrikūn, Shaltut believes that "disbelief alone does not render the shedding of blood lawful", in the absence of aggression.⁷⁸ He points out that the barā'a announced in Qur'an 9:1 does not mean that God has completely abandoned them and cut off his mercy from them.⁷⁹ We should also bear in mind Shaltut's refusal to brand anyone as a kāfir who has not heard the message of Islam, or who has heard it but has had it poorly presented to them; shirk implies an active turning away from guidance.⁸⁰

d) Conclusions

We will attempt briefly here to put Shaltut's views in some kind of context, always bearing in mind that he is essentially a religious scholar, and does not claim to be anything else.

On the question of Islam versus Arab nationalism, we can comment that historically Arab nationalism can be said to be based more on cultural and linguistic considerations than on strictly racial ones;⁸¹ all Arabs can take a pride in their Islamic heritage just as all Muslims take a pride in the Arabic language. Therefore the divide is not as great as might be thought. In any case, Arab nationalism, particularly in the minds

⁷⁸Tafsir, pp. 426-27.

⁷⁹Ibid., p. 612.

⁸⁰Ibid., pp. 229 and 230.

⁸¹Abd al-ʿAzīz al-Durr, The Historical Roots of Arab Nationalism, in Karpāt, op. cit., p. 37.

of religious thinkers, has most often been "a movement for guarding a nation's independence and freedom in the face of an external aggressor", rather than "an intellectual assertion of a nation's separateness and identity".⁸² It is fundamentalists such as the Muslim Brothers who have taken the most uncompromising view of nationalism,⁸³ but, significantly, these have never had to run a state.

Shaltut does not touch on the procedural questions such as the actual scope and authority of shūrā or the way in which it is to be implemented, or the means by which an unjust ruler is to be identified as such and subsequently removed. He believes that such matters are dependent upon circumstances and should be worked out by the appropriate specialists. Although it is now generally agreed that ūlū al-amr consist of authorities in all walks of life, such as industrial, agricultural, commercial, economic, political and military,⁸⁴ the process by which they are to be identified and the exact nature of their authority are left open by Shaltut.

⁸²Hamid Enayat, Modern Islamic Political Thought, Hong Kong: Macmillan, 1986, (repr.), p. 112.

⁸³Ibid., p., 115.

⁸⁴This was Rashīd Riḍā's definition of ūlū al-amr - Tafsīr al-Manār, 5:187; Riḍā has been criticised for his vagueness on procedural details (see Nadav Safran, Egypt in Search of Political Community, London: Oxford University Press, 1981, pp. 80-81, and Badawi, op. cit., p. 63); perhaps this is because he, unlike Shaltut, had some claim to be a political theorist, witness his work on the Caliphate.

As in other areas we have covered, such as penal law, it is common for modern-day scholars to disregard or disagree with certain opinions of the classical fuqahā'. One may cite the insistence that Islam does not condone wars of aggression, which represents a modification of the classical jurists' concept of jihād. In such cases, the need to rely on the Qur'an and the Sunna rather than the jurists' rulings is stressed.⁸⁵ It is natural that Muslims should stress the liberal humanitarian qualities of Islamic political principles, such as justice, freedom, equality, religious tolerance and the desire for peace, and find support for these in the Qur'an.⁸⁶ However, some exercise a certain selectiveness in their choice of sources, in order to reconcile the Islamic polity with certain internationally recognised principles of the present day, as embodied for example in the U.N. Charter. Such is the case where a contemporary Muslim scholar states that "Islamic law permits a Muslim state to enter into security arrangements with non-Muslim states", citing as evidence the Prophet's treaties with Arab tribes. However, he chooses to ignore the announcement of the barā'a which led to the cancelling of all such agreements.⁸⁷ This

⁸⁵See, e.g., Agha Shahi, The Role of Islam in Contemporary International Relations, in L'Islam dans les Relations Internationales, Aix-en-Provence: Edisud, 1986, p. 23.

⁸⁶See, e.g., L'Islam dans les Relations Internationales, pp. 17-18, 88 and 118ff, and Muhamed S. el-Awa, On the Political System of the Islamic State, tr. Ahmad Nājī al-Imām, Indianapolis: American Trust Publications, 1980, pp. 97-113.

⁸⁷Shahi, op. cit., p. 26.

contrasts with Shaltut, whose mental immersion in the Qur'an and the Sunna does not allow him to be selective in this way. In the same way, while pointing out the possibility of good relations with ahl al-kitāb, Shaltut is unable to ignore the Quranic verses which warn against certain of their ruses etc.

As regards forms of government, Shaltut is clearly influenced by his environment in his endorsement of socialism. Unlike Muhammad al-Bahi, whose enthusiastic promotion of socialism earned him a government ministry between 1962 and 1964, Shaltut was never accused of political opportunism. There is no reason to doubt that he was sincere in his belief in Arab socialism as beneficial to his country and in his admiration of certain aspects of Nasser's rule.⁸⁸

Certain earlier Muslim thinkers such as Rashīd Riḍā and ʿAbbās Maḥmūd al-ʿAqqād stressed the affinity between Islam and democracy, laying particular stress on the concept of shūrā as well as the ideals of equality, freedom etc.⁸⁹ Although Shaltut's generation admired those same qualities, the discrediting of the West that had taken place during the interval, and the admiration of the anti-imperialist stand of the Soviet Union and China made Muslims reluctant to support any ideological trend which

⁸⁸For an able analysis of the reasons behind the ʿulamā's support of Nasser's government see Enayat, op. cit., pp. 117-20. Not least of the reasons given is the ʿulamā's hope of influencing the leadership by lending their support, and their fear that Islam might otherwise get left by the wayside.

⁸⁹Jomier, op. cit., p. 216, and Safran, op. cit., pp. 215-26.

originated in the West.⁹⁰ Socialism was therefore turned to by political leaders and religious scholars alike, although Shaltut and others carefully avoided reference to "Islamic socialism" or any other phrase which might imply an identification of the two.⁹¹ A fundamentalist such as Sayyid Qutb may have rejected socialism as a system having its origins outside Islam,⁹² but his views on social justice and religion generally do not differ radically from those of Shaltut, therefore the difference would appear to be one of terminology rather than of principle, especially as Shaltut often uses the word "socialism" in an idealised sense, as we have shown. Shaltut was a product of his age in another way when he expressed hopes for a unified military force which would defend all the Muslim countries,⁹³ influenced, no doubt, by Nasser's attempts to establish a United Arab Republic. It is unthinkable that any scholar would express such a hope in the eighties.

⁹⁰The wheel has now turned full circle in that modernists can describe Islam as "democratic" without any such embarrassment, alluding primarily to the electoral procedure - see, e.g., F. Rahman, The Islamic Concept of State, in Donohue and Esposito (eds.), Islam in Transition, p. 261.

⁹¹Even that ardent supporter of the socialist cause, Muhammad al-Bahī, insisted on the distinct identities of socialism and Islam, and saw socialism as a necessary transition period rather than as an end in itself - see M. Bahī, Al-Fikr al-Islāmī wa'l-Mujtama' al-Mu'āsir: Mushkilat al-Hukm wa'l-Tawjīh, 2nd ed., Beirut: Dār al-Kitāb al-Lubnānī, 1975, pp. 317 and 323.

⁹²Enayat, op. cit., p. 151.

⁹³Min Tawjihāt al-Islam, p. 543.

On the politically sensitive issue of the rights of non-Muslims, apart from the rather vague reference to "equal rights and duties", and the granting of religious autonomy, Shaltut gives no detailed exposition of the status of ahl al-kitāb, or of mushrikūn, in an Islamic society. He does not say, for example, whether or not ahl al-kitāb would be excluded from government, but simply states that Muslims must be in control of their own affairs in order to fulfil God's commands in an Islamic society.⁹⁴ Some contemporary scholars address this dilemma more explicitly, pointing out that the fact that the Islamic state is based on a specific ideology means that only those who adhere to that ideology can be entrusted with the running of the state and its defence.⁹⁵ Maududi defends this distinction of status by saying that at least it is clear and explicit, and non-Muslims are guaranteed certain basic inviolable rights, while in the alternative of the modern nation-state the social, cultural or religious minorities suffer various forms of overt or covert prejudice, and are ultimately at the mercy of the majority. Moreover, non-Muslims have the option to convert to Islam, so that any restrictions placed on them are not permanent and irremovable.⁹⁶

⁹⁴Min Tawjihāt al-Islām, p. 557.

⁹⁵Yūsuf Qaraḍāwī, Ghayr al-Muslimīn fī al-Mujtamaʿ al-Islāmī, Cairo: Maktabat Wahba, 1977, p. 33, and Abul Aʿla Maududī, Rights of Non-Muslims in an Islamic State, tr. K. Aḥmad, Lahore: Islamic Publications Ltd., 1961, pp. 1-2.

⁹⁶Maududī, op. cit., pp. 1-4.

Despite the professed egalitarianism of Islam,⁹⁷ the very fact of a state being "Islamic" and the emphasis on religious brotherhood as a foundation of the state necessarily implies that non-Muslims must have an inferior status in some respects. The payment of jizya, which Shaltut describes as a sign of acknowledgement of the ruling power and a means of participating in the (financial) burdens of the state,⁹⁸ while being a natural corollary of the non-participation in the defence of the state for the reasons given above by Maududi, remains a conspicuous symbol of the differentiated status of ahl al-kitāb.⁹⁹ Shaltut feels no need to justify or apologise for this, in his firm conviction that Islam provides the best possible system for mankind as a whole.¹⁰⁰

2) The Contemporary Reality

a) The Impact of Imperialism

We have already referred to the immeasurable impact of the military and political domination of the West on the minds of the

⁹⁷Min Tawjihāt al-Islām, p. 73.

⁹⁸Min Huda al-Qur'an, p. 340.

⁹⁹One contemporary scholar who is generally conservative in outlook, maintains that jizya is a kind of non-Muslim counterpart of zakāh, and that non-Muslims may volunteer for conscription and be exempted from the payment of jizya. According to this interpretation ahl al-kitāb would have a privileged status, having more freedom of choice than the Muslims. See ^cAbdur Rahman I. Doi, Non-Muslims under Shari'ah (sic), 3rd ed., London: Ta Ha, 1983, p. 57.

¹⁰⁰See, e.g. ^cAgida wa Shari'ah, p. 450, and Min Tawjihāt al-Islām, p. 552.

Muslims. Shaltut lived and wrote at a time when not all Muslim countries had gained their independence; the factors which led to the deterioration of the Muslims' situation and enabled foreigners to subjugate them, and the lessons to be learned therefrom, are a frequent subject of discussion with him.

One of the principal factors to which the "downfall" of the Muslims is attributed is the loss of their sense of identity and lack of pride in their religion and nation(s), and the consequent separation of social and religious matters.¹⁰¹ Like other modern reformers, Shaltut applies the simple logic that since God promised in the Qur'an to make the Muslims victorious in battle even over superior numbers (8:66), military failure must be attributed to a lack of the true religious spirit in the hearts of the combatants.¹⁰² Failure to observe the true spirit of the ṣibādāt and thus to derive the desired benefit from them has prevented Muslims from achieving the strength, success and glory for which they were meant.¹⁰³ Moreover, a superficial understanding of what it means to be a Muslim has resulted in Muslim disunity and the predominance of selfish desires, which greatly facilitated the enemies' task.¹⁰⁴ The spirit of sacrifice

¹⁰¹ Min Tawjihāt al-Islām, pp. 58-59, and Min Huda al-Qur'an, p. 234.

¹⁰² Min Tawjihāt al-Islām, pp. 477-78.

¹⁰³ Ibid., p. 496.

¹⁰⁴ Ibid., p. 53.

which is manifest in the hijra of the first Muslims is lacking in the modern age.¹⁰⁵

Shaltut recognises the importance of education and research in the development of a strong and independent nation, for it was an inadequacy in this direction, largely due to the predominance of taqlīd over ijtihād, that gave foreigners the opportunity to infiltrate all areas of Islamic society and exploit the Muslims economically on the pretext of bringing "progress" to them.¹⁰⁶ It is not enough simply to carry out one's religious duties and then relax in the knowledge that God will not allow non-Muslims to be victorious over Muslims; Muslims must also pursue the material means which will ensure victory. It was neglect of these means that enabled their enemies to gain power over them.¹⁰⁷ Shaltut condemns the fatalistic attitude which has sometimes been promoted by enemies of Islam, so that "trust in God" has resulted in inactivity and passive acceptance of the status quo, instead of vigorous opposition to any form of imperialist control.¹⁰⁸

Shaltut brings out the significance of various Islamic texts for the current situation of the Muslims. "Holding fast to the rope of God" (3:103) involves, among other things, evolving an authentic Islamic economic infrastructure, in order to prevent the imperialists from siphoning off the wealth of underdeveloped

¹⁰⁵Ibid., p. 528.

¹⁰⁶Ibid., p. 139 and Min Huda al-Qur'an, p. 281.

¹⁰⁷Min Tawjihāt al-Islām, p. 286.

¹⁰⁸Min Huda al-Qur'an, p. 251.

Muslim countries, as well as an effective military power.¹⁰⁹ The Quranic category of "fī al-riqāb" as one of the heads of expenditure for zakāh (9:60) is deemed by some to be obsolete in an age when slavery has died out, but Shaltut maintains that the ideological, economical and political slavery of nations is an even worse phenomenon than the slavery of individuals, and deserves to have much money and effort spent for the sake of its removal.¹¹⁰ The occasion when the Prophet ordered the destruction of the "opposition mosque", and the hadīth which says that peepholes giving on to a neighbour's private quarters must be blocked, lead Shaltut to talk of the importance of national security. Bearing in mind that even a mosque can be used as a screen for hostile activities, one should be suspicious of all institutions which could be used to serve imperialist ends, be they cultural, educational, charitable, financial, etc.; the taking of (non-Muslim) "military allies" is particularly deleterious.¹¹¹

In view of the importance attached to political independence, Shaltut takes much pride in his own country's achievement of independence, and in the achievements of Nasser, whom he

¹⁰⁹Min Tawjihāt al-Islām, p. 543.

¹¹⁰Fatawa., pp. 118-19.

¹¹¹Min Tawjihāt al-Islām, pp. 279-81; this unequivocal stand is greatly admired in a recent newspaper article, where a more recent Shaykh al-Azhar, al-Najjār, is unfavourably compared with Shaltut, the former having issued fatwās in support of petty vested interests, while Shaltut retains his integrity and impartiality - see Fahmī Huwaydī, Lāhūt al-Taharrur, in Al-Ahrām, March 8th 1988.

describes in one speech as "the chosen hand of God", when talking of the newly inaugurated United Arab Republic.¹¹² The Suez Canal incident is obliquely referred to as an example of how strength of faith and a readiness to fight can help the Muslims to overcome superior numbers.¹¹³

b) The Religious Response: the Defence of Islam

One of the most marked reactions to the Western threat was the defensive one; Islam now needed to be defended against a dominant, non-Muslim West, and Muslims felt the need to justify their faith in the face of charges of backwardness and barbarianism. This defence took various forms.

Jamāl al-Dīn al-Afghānī (1839-97) was one of the first in the Arab world to rise to this challenge. He was well aware of Europe's criticisms of Islam and responded vigorously to them; he refuted Renan's claim in his lecture at the Sorbonne in 1883 entitled "Islam and Science", that Islam was incompatible with modern science and in contradiction with it; his longest work, "Al-Radd ʿalā al-Dahriyyīn" ("The Refutation of the Materialists"), attacked the theories of European thinkers such as Darwin as well as freethinkers from the Muslim world, such as Ahmad Khan, who wished to dispense with the Shariʿa while retaining the Qur'an.

¹¹²Ibid., pp. 272 and 544.

¹¹³Ibid., p. 478.

His erstwhile disciple and companion, Muḥammad ʿAbduh, defended Islam in his replies to the articles of Monsieur Hanotaux (the French foreign minister) which appeared in a French newspaper, and later in reply to the articles of Farah ʿAntūn, an Arab Christian, which appeared in "Al-Mu'ayyad". Like al-Afghani, he stressed the complementary roles of reason and revelation, Islam's flexibility and compatibility with modern civilisation, its emphasis on equality, its naturalness (fitriyya), and its eternal nature.¹¹⁴ For al-Afghānī and ʿAbduh, the gate of ijtihād was most definitely open, providing Islamic law with its dynamic element and safeguarding it against stagnation and decay which are the inevitable result of taqlīd.

Rashīd Riḍā continued Muḥammad ʿAbduh's work in this respect, but there is a change of emphasis discernible between the two earlier reformers and Rashīd Riḍā, which reflects the changing times. While al-Afghānī and ʿAbduh were aware that many Muslims needed to be taught their own religion anew and were concerned with this area of activity, at the same time they had much contact with Europeans and were familiar with European language and culture. Rashīd Riḍā, on the other hand, had virtually no contact with Europeans,¹¹⁵ and his writings were addressed almost exclusively to Muslims; the fact is that by his time it had become necessary to defend Islam to the Muslims themselves - in

¹¹⁴See C.C. Adams, Islam and Modernism in Egypt, pp. 86-90 for a more detailed description of these correspondences.

¹¹⁵Hourani, op. cit., p. 235.

particular those who had received a Western education and were attracted by European civilisation.

Among Muhammad 'Abduh's followers we find a great variety of schools of thought; while he himself had a background of traditional Islamic scholarship, many of his pupils were less educated in the strictly religious sense, and there were some who used his ideas for very different purposes than those for which they were originally intended. Some believe that the concept of Islam that Muhammad 'Abduh propounded was flexible to the point of vagueness, with, for example, its emphasis on the principle of maṣlaḥa (public interest) in Islamic law, in order to leave more room for human value judgements, and that it was therefore not surprising that his pupils had such vastly differing viewpoints, some of them tending towards secularist ideologies.¹¹⁶ These include Qāsim Amīn (1865-1908), who in his book "Al-Mar'a al-Jadīda" virtually disregarded the Shari'ca and referred to Europe for an example of the ideal state of womanhood, and Aḥmad Luṭfī al-Sayyid (1872-1963), who rejected religion as a basis for nationalism.

Among those of 'Abduh's followers who were interested in defending Islam, Muḥammad Farīd Wagdī (d. 1952) is an interesting example. He was a profuse writer and apologist of Islam¹¹⁷;

¹¹⁶See, e.g., Hourani, op. cit., p. 163, and Safran, op. cit., p. 76.

¹¹⁷See Sarkīs, Mu'jammat al-Matbū'āt al-'Arabiyya wa'l-Mu'arraba, Matba'at Tarkīs bi-Miṣr, 1928, columns 1451-52, and C. Brockelmann, Geschichte der Arabischen Litteratur, Supp. No. 3, Leiden: E. J. Brill, 1942, pp. 324-25, for lists of his works.

originally a journalist, he did not have the same religious training as 'Abduh, although he was editor of Majallat al-Azhar from 1933 up until the year of his death. Wilfred Cantwell Smith uses him as an illustration of the dangers of apologetics;¹¹⁸ when one's main aim is to defend something, truth can sometimes be sacrificed to that defence, and writings which are exclusively apologetic are unconstructive - they portray Islam as a kind of wonderful object to be admired, instead of calling for action. Moreover the constant reference to external criteria - in this case Western civilisation and all that it entails - to the detriment of one's own indigenous heritage, amounts to a kind of neurosis. The desire to defend one's religion against attack is natural enough, but can be a double-edged sword when this is not supplemented by positive teachings.

We find some Muslims who are willing to abandon some of the most fundamental legislation of Islam, concerning sensitive areas like polygamy, divorce and the hudūd (prescribed punishments), in order that it may conform more closely to the Western ideal. These Westernising modernists had no little influence with many of the Muslim governments; for the greater part of this century the sphere of authority of the Shari'a has steadily diminished in nearly all the Muslim countries, even in the area of family law.¹¹⁹ Tunisia, a pioneer in this respect, while paying lip-

¹¹⁸W.C. Smith, Islam in Modern History, pp. 132-50.

¹¹⁹This statement may need to be modified in the light of developments over the last two decades, in which many pressure groups have been calling for a return to the Shari'a, but here we

service to Islamic law, passed legislation in 1956 which abolished the Qāḍī's tribunals and made polygamy a criminal offense.¹²⁰

Even among those who are determined to preserve the unchanging elements of the Shari'a, i.e. those based on the Qur'an and the true Sunna, we find some of the adverse symptoms of apologetics, such as gross generalisation and a cavalier attitude towards history. Defending polygamy, Rashīd Riḍā writes, among other things, that in Europe there is not one man in 100,000 who is not adulterous,¹²¹ and defending the position of women in Islam, he claims that before Islam all nations treated women as animals and denied them any rights.¹²²

At the opposite end of the scale to the Westerning Muslims we find the Muslim fundamentalists, such as the Muslim Brotherhood and other similar groups which grew up largely in reaction to and protest against Western influence. Muḥammad Quṭb's "Shubahāt ḥawla al-Islām", translated into English as "Islam, the Misunderstood Religion", gives us an example of the fundamentalist/conservative viewpoint. In the chapter on Islam and women, for example, reasons are given for man's authority over women with stress laid on women's emotional disposition;

are primarily concerned with Shaltut's lifetime.

¹²⁰See J. Schacht, An Introduction to Islamic Law, Chapter 15 passim.

¹²¹Tafsir al-Manar, 4:355.

¹²²Ibid., 4:306.

the author takes a pride in the Islamic system, which he sees as the ideal, whereby the women's primary role is the upbringing of the children and the care of the home.¹²³ Similarly he sees the Islamic divorce laws as the best possible system.¹²⁴ While admitting that the position of women in the Muslim world leaves much to be desired, he attributes this to various factors such as poverty, social injustice and political repression, despite the fact that the economic and political teachings of Islam are designed to abolish all these.¹²⁵ Thus the author maintains that Islam is the ideal source of legislation, and that there is no need to have recourse to Western socio-cultural or legal norms.

Having briefly described the range of Muslim reactions to the West and the ways in which they defended their religion, we will proceed without further delay to Shaltut.

i) Shaltut's position: a positive approach

In Shaltut's writings we find little apologetic content as such. His "defence" is usually of a more positive nature; he likes to dwell on the qualities of Islam which make it the ideal religion: its moderation (tawassut), naturalness (fitriyya), tolerance and lenience (samāha wa-yusr), rationality (ʿaqliyya), its eternal nature (khulūd), and its comprehensiveness and

¹²³Muhammad Qutb, Islam: The Misunderstood Religion, 7th ed., Lahore: Islamic Publications Ltd., 1984, pp. 121-23.

¹²⁴Ibid., pp. 116-18.

¹²⁵Ibid., pp. 124-30.

completeness (kamāl). He is firmly in the idealist camp, with a passionate belief in the validity of his religion on its own terms, without feeling the need to measure it against external criteria.

We will describe Shaltut's exposition of these positive qualities of Islam before going on to discuss his defence of religion in general vis-a-vis secularism and materialism, and of Islam in particular on certain issues.

The middle way

Moderation (tawassuṭ) is a well-known principle of Islam. In his tafsīr of Sūrat al-Fātiḥa, under the heading, "Islam is the Straight Path",¹²⁶ Shaltut lists some of the areas of life in which Islam recommends the middle way. Firstly, with regard to faith, it represents the mean between atheism and polytheism; secondly, with regard to morality, it represents the mean between those who have no concept of virtue whatsoever, and those who are over-strict and go to extremes in their rigid interpretation of morality, as well as being a middle way in individual moral qualities, falling between cowardice and recklessness, miserliness and profligacy, arrogance and subservience; thirdly, it represents the mean between pure materialism, and the constant pursuit of gain, and pure spirituality, which entails asceticism, celibacy, and denying the good things of life;¹²⁷ fourthly, as

¹²⁶Tafsir, pp. 31-36.

¹²⁷He expands on this topic in Min Tawjihāt al-Islām, pp. 96ff.

regards legislation, it neither leaves everything to man nor does it arrogate everything to itself, but lays down some things while delegating others to man; fifthly, regarding the individual's relation to society, it neither leaves man completely free so that the strong can oppress the weak, nor does it negate his individuality, making him a mere tool of society - instead it lays down a balanced system of rights and duties for the individual and for society; sixthly, regarding international relations, it neither neglects the defence of the Muslim nations, nor does it require the Muslims to oppress other nations, attacking them unjustly, but requires that the Muslims be always on their guard, and defines the legitimate reasons for war.

In his general religious writings Shaltut makes fairly frequent mention of the moderation of Islam, and he quotes many passages from the Qur'an demonstrating this quality.¹²⁸ In addition to the aforementioned areas, he mentions the political sphere, where Islam endorses neither tyranny nor anarchy,¹²⁹ and the economic sphere, where it endorses neither a capitalist-type economy nor a communist-type one.¹³⁰

Part of Islam's tawassut is that it is based upon reality and practical needs; it caters for man's physical and spiritual

¹²⁸ See, e.g., ibid., p. 131.

¹²⁹ Ibid., pp. 107-8.

¹³⁰ Agida wa-Shari'a, p. 95, and Tafsir, p. 497.

requirements,¹³¹ and regulates for matters which, though in themselves undesirable, are an inevitable part of life, such as war.¹³²

Shaltut raises tawassut to the level of a "major principle" (aṣl ʿaẓīm)¹³³ of Islam, and it is one which influences him in his fatwās, as where he discusses the confusion which has arisen between those who say singing and music is absolutely ḥarām and those who say it is absolutely ḥalāl. Citing this principle, Shaltut falls between the two camps, believing it to be lawful with certain provisos.¹³⁴

Al-fitriyya

Shaltut often mentions this characteristic in conjunction with tawassut, since man's natural instincts should be regulated, and not allowed to go to extremes.¹³⁵ He repeatedly affirms that Islam does not deny man's natural inclinations, but rather moderates them. Commenting that the injunction to be good to one's parents, and particularly the mother, in view of all that she has borne for the sake of her child, is in accordance with nature, Shaltut goes on to say:

¹³¹ Min Tawjihāt al-Islām, pp. 65 and 176, under the heading "Dīn al-Wāqīʿ".

¹³² Ibid., pp. 236-7.

¹³³ Fatawa, p. 411.

¹³⁴ Ibid., pp. 409-14.

¹³⁵ E.g. Min Tawjihāt al-Islām, pp. 131, 155 and 497, and Fatawa, p. 411.

The injunctions of Islam are in accordance with the requirements of human nature not just as regards the treatment of parents; indeed, if we look further afield, bearing in mind the requirements of nature in all areas of life, then compare these with the Islamic legislation in those areas, we will find that the Islamic legislation is invariably nothing more than the regulation of that which human nature requires; its regulation of family life is in accordance with nature, for the mother is the one most closely involved in bringing up the children, she suckles them and wakes for them at night, while the man helps her in the care of the children, works hard, spends, and acts as the guardian of the family; its regulation of financial matters, namely that money should be obtained by legal means and spent in a reasonable manner, and neither held back nor squandered, is in accordance with nature; its regulation of human relations, on a basis of love and cooperation, without exploiting those who are in need or subjugating those who are weak, is in accordance with nature.¹³⁶

In this passage it is evident that Shaltut takes nature and human nature to be essentially good - indeed, there is no concept of original sin in Islam. He asserts that mankind is naturally disposed to believe in God,¹³⁷ and he refers to the way in which the Qur'an itself appeals to man's natural instincts as a witness to tawhīd.¹³⁸ Human nature, in its uncorrupted state, is able to recognise the truth and knows instinctively that which is wrong,¹³⁹ and if it weren't for "external pressures", human

¹³⁶Agīda wa-Sharī'a, p. 222; he also talks about Islam's regulation of man's natural inclinations in Fatawa, pp. 410-11 and in Min Tawjihāt al-Islām, pp. 497, 155 and 106.

¹³⁷Min Tawjihāt al-Islām, pp. 5 and 35.

¹³⁸Ila al-Qur'an al-Karīm, pp. 63-64.

¹³⁹Min Tawjihāt al-Islām, pp. 29 and 194.

nature would hasten to obey God's commands.¹⁴⁰ Thus Muḥammad's mission was, in a sense, to awaken this natural spirit in man.¹⁴¹

The lawfulness of polygamy in Islam is seen as an instance of the regulation of human nature, since it caters for those circumstances where for some reason monogamy is unable to fulfil man's natural requirements, and avoids the need for adultery, while at the same time limiting the number of wives and giving instructions for their equitable treatment.¹⁴²

Al-samāha wa'l-yusr

Again, we find this characteristic related to the previous one, since the fact that the precepts of Islam are in accordance with human nature makes it necessarily easier for man to comply with them.

The main example which Shaltut cites of Islam's leniency is those areas, particularly in acts of worship, where alternatives are allowed in case of difficulty (tashrīc al-badal), such as the shortening of the prayer or the permission not to fast during a journey;¹⁴³ he also mentions those occasions where necessity removes taḥrīm (prohibition), such as where one is starving to

¹⁴⁰ Ibid., pp. 151-52.

¹⁴¹ Ibid., pp. 453-54.

¹⁴² cAqida wa-Shari'a, pp. 181-82.

¹⁴³ See, e.g., cAqida wa-Shari'a, pp. 110-11, under the heading, "Maḏāhir al-yusr fī al-ṣiyām", and pp. 89-91, under the headings, "Taysīr Allāh calā cībādihi fī al-ṣalāh", and "al-yusr dākhil al-ṣalāt min jamīc nawāḥihā", and Fatawa, pp. 141-43, under the headings, "Yusr al-Islām wa-raḥmatuhu" and "Al-yusr fī sawm Ramaḏān".

death and the only available food would normally be harām, or where prohibited substances are contained in medicine which is essential for one's health.¹⁴⁴

Under the heading, "Yusr al-Islām wa-Samāhatuh", Shaltut writes:

They (i.e. those who consider religion to be unduly harsh and restrictive) ought to acquaint themselves with the general foundation upon which the religious legislation is based, and read the words of God Almighty: "God does not charge a soul with more than it can bear" (2:286), and "God desires your well-being, not your discomfort" (2:185), and "He has not made the observance of your faith difficult for you" (22:78), and they should listen to the words of the noble Prophet: "Religion is easy; whomsoever overburdens himself in his religion will be defeated, so do your best and do not complicate matters", and: "Make things, easy, not hard, give good news and do not alienate people".

They should look at the details of the legislation, then they will see how He has made it easy for people, even as regards the basic creed...He has imposed on them no more than that which their own nature may bear witness to, with no complexity or perverseness.¹⁴⁵

Shaltut maintains that the qualities of yusr and samāḥa are present even in those areas where people have accused Islam of harshness, such as the laws governing divorce, which some people say have resulted in an unduly large proportion of divorces in Islamic countries. Shaltut retorts:

There is nothing in the ample laws of Islam which threatens the family except ignorance of those laws, and neglect of the prescribed conduct and

¹⁴⁴See his fatwā on medicine containing an element of swineflesh, in Fatawa, pp. 380-82.

¹⁴⁵Min Tawjihāt al-Islām, pp. 21-22.

morals attached to them, and the narrow-minded and rigid adherence to particular schools of law which are taken as a religion which must be followed...¹⁴⁶

Shaltut himself is a good advertisement for the tolerance of Islam; his tolerant attitude is demonstrated in his practical life, where he worked hard to effect a conciliation between the legal schools and to improve Sunnī-Shīcī relations, in many of his fatwās, and in his desire to keep the essential articles of faith, deviation from which entails charges of kufir, down to an absolute minimum.¹⁴⁷

Al 'aqliyya wa'l-taqaddum

Under this heading come those passages where Shaltut shows how Islam encourages people to seek knowledge and to use their intelligence, and not to rely on the authority of others.

Under the rubric: "Islam is the religion of intellect and knowledge" ("Al-Islām dīn al 'aql wa'l-'ilm"),¹⁴⁸ he begins by drawing attention to the Qur'an's emphasis on the intellect, quoting passages which show the eminence of those who have knowledge, as well as passages which show the importance of rational proof and evidence in the Islamic religion. He mentions the fact that Muḥammad's mission did not have recourse to

¹⁴⁶Fatawa, p. 311; cf. Ḥammūdah 'Abd al-'Atī, The Family Structure in Islam, Indianapolis: American Trust Publications, 1977, p. 224, where the author points out the impossibility of separating the legal issues from the moral ones: "The whole question of divorce is enveloped in emphatic moral teachings and would thus seem to be regarded primarily as a moral act."

¹⁴⁷Cf., e.g., 'Aqida wa-Shari'a, pp. 56-57, and Tafsir, p. 272.

¹⁴⁸Min Tawjihāt al-Islam, pp. 140ff.

sensuous miracles in order to convince people, but appealed instead to their minds, with arguments which are contained in the Qur'an. He then shows how the Qur'an condemns taglīd, and links the concept of knowledge and the intellect with the concept of progress and growth, under the sub-heading, "Stagnation is in conflict with the law of growth", where he says:

Intellectual evolution is like the evolution of plants and animals and people, for they are all an essential part of life. If intellectual evolution ceased, man would get tangled up in the great multitude of natural phenomena which nature produces, and of which he is one, and would be unable to cope with life's neverending expansion, which is there only to serve man, for his own well-being and benefit, and he would fail in his task of being God's vicegerent on earth, a task for which he was chosen and which was entrusted to him in the beginning of Creation.¹⁴⁹

Thus he again shows how the precepts of Islam are in accordance with the laws of nature. He reaffirms this under the heading which follows: "Slavish adherence to that which is old robs man of his humanity", where he describes intellectual stagnation as "a crime against human nature".¹⁵⁰ After this he enlarges on certain aspects of knowledge, such as its relation to health and medicine,¹⁵¹ the importance attached to literacy, and the fact that education should comprise not just religious matters but all areas of knowledge.¹⁵² He points to the example

¹⁴⁹ Ibid., pp. 142-3.

¹⁵⁰ Ibid., p. 143.

¹⁵¹ Ibid., p. 146; cf. also pp. 176ff.

¹⁵² Ibid., pp. 147-49.

of the early Muslims and their recognition of the importance of literacy and knowledge, and how a largely illiterate nation gave birth to a highly developed civilisation.¹⁵³

This section is followed by a section entitled, "The spiritual element in education", where Shaltut makes it clear that in his opinion intellectual refinement is not the only, nor even the most important, aspect of education, but that spiritual and religious instruction must be the basis of education.¹⁵⁴ On the other hand, among the means of spiritual refinement, al-tafakkur (thought and meditation) is given as the first - but this tafakkur must be accompanied by remembrance of God, for materialistic ways of thinking are even worse than stagnation.¹⁵⁵

Shaltut contemplates no dividing line between reason and revelation, no instance in which either of them is dispensable. There is no attempt to adapt Islam to scientific theories; Muḥammad ʿAbduh and Rashīd Riḍā may have toyed with the possibility of Islam's accommodating Darwin's theory of evolution, but Shaltut does not. In his fatwā in answer to the question: "Do men of religion oppose the theory of evolution on the basis of a valid religious authority, or out of narrow-mindedness?", he is of the belief that the Qur'an's description

¹⁵³ Ibid., pp. 149-50.

¹⁵⁴ Ibid., pp. 151ff.

¹⁵⁵ See sub-headings in ibid., pp. 125-29.

of the creation of man is totally irreconcilable with the theory of evolution.¹⁵⁶

However, he is not averse to the idea that some of the precepts of Islam are based on scientific knowledge which man has only acquired in the modern age, as where he claims that modern medicine confirms the fact that menstruation can be harmful (cf. Qur'an 2:222), in that the female reproductive organs are more susceptible to infection at this time because of the alkalinity and the general inflammation of the vagina.¹⁵⁷ This is in keeping with his belief that Islam is in accordance with natural laws. Contrary to the Ash'arite theory of "occasionalism", which entails a refusal to recognise any inherent order in the universe which may be seen as implying a kind of obligation on God,¹⁵⁸ Shaltut and most other modern Muslim scholars recognise the laws of cause and effect, and see no contradiction between natural and divine law, since nature is part of God's creation and therefore His implicit revelation.¹⁵⁹

Apart from the importance of reason within Islam, we should also mention Shaltut's view of the "reasonableness" of Islam;

¹⁵⁶Fatawa, pp. 401-4; one may contrast with this 'Abbās Maḥmūd al-ʿAqqād's view that we cannot refute the theory of evolution on the basis of the Quranic text, which he does not believe to be muhkam on this subject - see Al-Falsafat al-Qur'āniyya, Cairo: Dār al-Hilāl, n.d., pp. 208-9.

¹⁵⁷Min Tawjihāt al-Islām, p. 177.

¹⁵⁸Kerr, Islamic Reform, p. 59.

¹⁵⁹Cf., e.g., Fatawa, pp. 207-8, Tafsīr al-Manār, 9:593, and 'Abbās Maḥmūd al-ʿAqqād, op. cit., pp. 18ff.

it s tawassut and yusr and fitriyya form part of this. In Shaltut's opinion, the main evidence for it is the fact that one can see the reasons behind nearly all the dictates of religion, and the way in which they benefit mankind, and it is a fundamental principle of religion to reinforce anything which is beneficial and to wage war on anything which causes harm.¹⁶⁰

In an article entitled, "Islam encourages progress",¹⁶¹ Shaltut seeks to demonstrate the adaptability of Islam to changing conditions. He first of all mentions the evolution of religions, and the fact that Islam came as the final perfected version of religion when man was at the appropriate stage of development. He summarises the four main areas of human life which Islam regulates: creed, morals, dealings between men (mu'āmalāt), including government, and man's relationship with the natural phenomena which surround him. Under the third heading, he states that justice, maṣlahā and shūrā are the three bases of government in Islam; it is noteworthy that the last two in particular provide devices which contribute a dynamic element to Islamic government. He maintains that in the light of the way in which Islam regulates these four areas,

...it becomes clear without any shadow of a doubt that Islam is not only a religion which keeps pace with modern progress, but it is a divine plan which purges modern civilisations of their tyranny and recklessness, and urges mankind...to progress

¹⁶⁰ See headings in Fatawa, p. 406, "Al-dīn yuqirru al-ṣāliḥ wa-yuḥārib al-fāsid, and Tafsir, p. 416, "Al-faḥsh wa'l-ḍarar ʿillat al-tahrīm".

¹⁶¹ Min Huda al-Qur'an, pp. 247-51.

along the path of virtue and civilisation, and to put an end to evil and corruption, until God's command comes to pass.¹⁶²

In the interests of scholarship, it must be said that there is no detailed exposition of the four areas which could be taken as firm evidence of this thesis; however this may be explained by the fact that this article was originally a speech delivered on the occasion of the Prophet's birthday, hence its hortatory rather than scholarly nature.

In the Introduction to ‘Aqida wa-Shari‘a, Shaltut points out the vital role of ijtihād in the Shari‘a, which has resulted in a wide spectrum of opinion on those matters which are not basic articles of faith or legislation laid down in the Qur'an and Sunna, and goes on to say:

If this aspect of Islam indicates anything, it is that it is a religion which is sufficiently broad to accommodate man's freedom of thought (within the limits of reason) and that, with the exception of certain basic articles of faith and legal principles, it is not restricted to one type of thinking or one method of legislation; and because of that freedom it has been able to adapt itself to all healthy types of culture and all civilisations which man's intellect has produced for the benefit and the advancement of mankind, no matter how far that intellect progresses, and no matter to what degree life evolves.¹⁶³

The universal qualities of Islam: al-kamāl wa'l-khulūd

Shaltut's view of Islam is not luke-warm; for him it is not just moderate, reasonable and congenial to human nature - for him and for all committed Muslims it is not just a religion but the

¹⁶² Ibid., pp. 250-51.

¹⁶³ ‘Aqida wa-Shari‘a, p. 9.

primordial religion - complete and valid for all times. In an article entitled "The eternal element in Islam", Shaltut affirms this archetypal nature of Islam - the fact that all religions came from the same source and bore essentially the same message, and that Muhammad came to complete the building, as it were, by laying the last brick in it. Thus Islam is not just one religion among many, but it is the religion; "Christianity" and "Judaism" are, in their pure forms, Islam.¹⁶⁴

Shaltut maintains that Islam is as eternal as its source:

Islam, by virtue of its source and the One Who established it, and Who sent the prophets with it from the beginning until the end, is as eternal as God's mercy to those who worship Him; if God's mercy to His servants is eternal and unceasing, Islam, which is the manifestation of that mercy, cannot be other than eternal and unceasing.¹⁶⁵

In order to be eternally valid, the teachings of Islam must contain, in essence, all that is necessary for man's well-being:

If we examine its (Islam's) teachings as a whole and in its details, we will find that it is an ideal system, catering for the happiness of the individual and society in this world and the next; it has not neglected to enjoin and encourage anything which is for man's well-being and success, and which makes for a good life and eternal happiness; nor has it neglected to forbid and discourage anything which is harmful and corrupting, and which makes for a life of humiliation and lasting wretchedness.¹⁶⁶

The essential core of the Islamic teachings is unchanging because man's nature remains the same throughout the ages, no

¹⁶⁴Min Tawjihat al-Islam, pp. 81-85.

¹⁶⁵Ibid., p. 85.

¹⁶⁶Ibid., p. 86.

matter how far civilisation appears to have advanced. Man's thought-patterns remain the same, man's evil and tyranny does not change, and God's sunna is the same in all ages and with all peoples.¹⁶⁷ However, in order to be eternally valid, there must also be a changing, flexible element; when giving a fatwā on the subject of smoking, basing his judgement on the principle that that which is harmful to one's health is harām,¹⁶⁸ Shaltut says:

...for a thing to be harām or makrūh in Islam, there does not have to be a text on that particular subject, for the underlying reasons for legal rulings (ʿilal al-aḥkām) and the general principles of legislation are both of value in deciding the legal status (aḥkām) of things; and by virtue of these reasons and those principles, Islam is fully able to evaluate anything which men may invent, as regards its legality or illegality.¹⁶⁹

This passage gives us a clue to what he means when he says that Islam has regulated for all man's needs, for it is clear that the Islamic sources do not cover every area of life; the underlying principles and reasons which may be gleaned from those sources, however, can be applied to all areas of life.

Summary

We have outlined the aspects of Islam of which Shaltut makes most frequent mention. He does not conceive these qualities as

¹⁶⁷Ibid., p. 46, Ila al-Qur'an al-Karim, p. 124, and Min Tawjihāt al-Islam, p. 479.

¹⁶⁸It would be uncharacteristic of Shaltut to condemn all smokers of tobacco; he puts the onus on governments to rid their countries of tobacco - Fatawa, p. 385.

¹⁶⁹Fatawa, pp. 384-85.

separate and distinct from one another;¹⁷⁰ it would seem rather that he has a vision of Islam as a harmonious whole, these qualities being like points on an unbroken circle, each related to the others in some way and all bearing the same relation to the centre.

It is not unusual for Muslim writers to bring out these qualities of Islam; on the contrary, since 'Abduh's time it has become commonplace, and there are numerous works which concentrate on one or more of these qualities.¹⁷¹ In Shaltut's case, he does not usually set out systematically to establish Islam's "tolerance" or "naturalness" or "rationality"; rather, he consistently brings out these qualities in the context of the subject matter in hand. This approach, whereby concrete examples are provided to illustrate the particular quality in question, means that these claims do not seem forced or artificial, but are the natural consequence of his train of thought.

In view of the fact that he is addressing Muslims, he occasionally assumes in his audience an admiration for Islam which obviates the necessity for intellectual justification of

¹⁷⁰We have mentioned some of the areas of overlap under the individual headings. He also relates the qualities of khulūd, kamāl and fitriyya to each other - Min Huda al-Qur'an, p. 247, and, in the context of the khulūd of Islam, he brings together the qualities of tawassuṭ and wāqi'iyya - Min Tawjihāt al-Islām, pp. 86-87.

¹⁷¹To name but a few, one could mention "Al-Islām, Dīn al-Fitra wa'l-Hurriyya" by 'Abd al-'Azīz Jāwīsh (d. 1929), "Samāḥāt al-Islām" by Aḥmad Muhammad al-Ḥūfī, "Nazariyyat al-Tawassuṭ fī al-Islām" by Maḥdī 'Allām, "Yusr al-Islām" by Rashīd Riḍā, and "Hikmat al-Islām" by al-Sayyid Maḥmūd Abū al-Fā'id al-Mutawaffā.

his postulate, as in the passage quoted below from Min Huda al-Qur'an (pp. 250-51). This probably arises partly from the fact that this article ("Islam encourages Progress") is one of the relatively few where Shaltut deliberately sets out to demonstrate a particular quality of Islam. However, it is not in Shaltut's nature to make excessive or unfounded claims; perhaps because of his legal training, he is consistently sober and cautious, keeping to practical examples and backing up his opinions more often than not with copious quotes from the Qur'an.¹⁷²

ii) The threat of secularism

While believing that religion should hold sway over all areas of life and all spheres of legislation, Shaltut is well aware that this is very far from the actual state of things, even in the Muslim countries. In an article entitled, "Man's need for religion",¹⁷³ he begins by describing how man is constantly pulled between the two opposing forces of good and evil; in some respects it is easier for him to incline to the latter, to be seduced by the glitter of this world and its temptations and to give into his own selfish desires.

It is Shaltut's belief that man's intellect alone is not sufficient to overcome evil and to make good prevail, and he lists the reasons for this: firstly, no two minds are alike, even in their conception of good and evil - men's intellects have

¹⁷²Cf., e.g., Min Tawjihat al-Islam, pp. 82-84 and 86, and Fatawa, pp. 402-3.

¹⁷³Min Tawjihat al-Islam, pp. 12-28.

created many different systems which conflict with each other, such as communism and capitalism, democracy and despotism; secondly, true objectivity is unattainable by men - their thinking is always influenced in some degree by their own desires and various other elements such as their race, country, the people around them, etc.; thirdly, men's intellects are limited in nature - unlike God, they are not able to foresee all possible eventualities; fourthly, a man-made system does not influence people in such a profound way as a religious system, or command such deep-seated loyalty - people almost invariably feel man-made laws to be something imposed on them by other men, and, if they feel they can get away with it, are quite happy to break the law, since the only thing which stops them is not their own conscience but the fear of discovery and punishment. For these reasons, reliance on man-made systems can only lead the world to ruin and destruction.¹⁷⁴

According to Shaltut, without religion man is liable to be overcome by the trials and tribulations of life; religion provides him with two things in particular which help him in this: sabr and salāh.¹⁷⁵ The scientific and material progress which has enabled mankind to conquer space has not been able to provide him with happiness and security; the only answer is for man to return to religion, and the only religion which is free from complexity and distortion is Islam, "the religion of the

¹⁷⁴ Ibid., pp. 14-16.

¹⁷⁵ Ibid., pp. 23-27.

spiritual and the material, the heart and the mind, the individual and society, of this world and the next".¹⁷⁶

Shaltut warns of the dangers of secularism:

This idea (of the separation between religion and society) has become prominent and the men who have actually undertaken social reform have not based their ideas upon religion; as for the men of religion, they have shrunk before them, and have confined themselves to instructing people in the performance of the acts of worship and their outward particulars, and those things which render them valid or invalid.

Thus, many people have come to imagine that religion, with its rulings and directives, is one thing, and society, and all that it entails and requires, is another.¹⁷⁷

Materialism is seen as being responsible for many of the world's problems,¹⁷⁸ and materialistic ways of thinking more dangerous than intellectual stagnation.¹⁷⁹ The threat of materialism comes not just from unbelievers but from Muslims themselves, for example those who observe only the external forms of their religion without the right spirit,¹⁸⁰ or those who propose materialistic reasons for the acts of worship, dwelling on the salubrious aspects of wuḍū' and ṣawm, and maintaining for example that prayer provides beneficial physical exercise, or that the most important function of the ḥajj is to provide an

¹⁷⁶ Ibid., p. 28.

¹⁷⁷ Min Huda al-Qur'an, p. 235.

¹⁷⁸ Min Tawjihāt al-Islam, p. 454.

¹⁷⁹ Ibid., pp. 125-29.

¹⁸⁰ Tafsir, p. 497.

opportunity for Muslims from different countries to get to know each other and hold meetings, etc.¹⁸¹

Shaltut is certainly justified in his concern as regards secularism and materialism as a threat to religion, but this concern does sometimes lead him into generalisations - after all, man-made ideologies have been known to command widespread respect and support. Theologically speaking, however, it is the only possible stand for him to take - that even if man-made systems achieve a limited degree of success, they will inevitably falter at some point; and if the Islamic system has not always prevailed or succeeded, this is only due to man's imperfect interpretation or application of that system.

iii) Response to attack

Shaltut was not familiar with the works of Orientalists; indeed he devoted all his energies to studying and spreading the teachings of Islam, and firmly believed that Muslims should get their own house in order before studying the laws, philosophy, literature and customs of the West, which at this stage will only serve to drain their own confidence and weaken their sense of identity.¹⁸² However, he was naturally aware of the grave threat that foreign occupation and foreign influence had posed and

¹⁸¹ Min Tawjihāt al-Islām, pp. 370-71; Rashīd Ridā was less reticent in this regard and did not hesitate to point out the implications of wudū' for general hygiene - Tafsīr al-Manār, 6:262.

¹⁸² ʿAqida wa-Sharīʿa, p. 136.

continued to pose to the Muslims' beliefs and values, for in addition to occupying the lands of the Muslims, Shaltut maintains that Europeans had systematically attacked their beliefs and traditions and put pressure on them to reject their own civil and criminal law in favour of European-style laws, as well as seducing Muslim woman with their European ideals while affecting to defend her.¹⁸³ He points out that the mere fact of a nation's being powerful and materially superior lends it credibility, so that people tend to be attracted to that nation's ideas and views, even if those ideas are inherently repugnant.¹⁸⁴ It is principally those Muslims who are attracted to European culture who are rejecting the Islamic legislation,¹⁸⁵ and he cites Turkey as the prime example of a Muslim country which has been so influenced by the West that it has turned away from Islam altogether.¹⁸⁶

Shaltut was also aware of some of the criticisms which had been levelled against Islam, both by Europeans and by Muslims who were influenced by them, particularly in areas such as the status of Muslim women, divorce laws, polygamy, the hudūd, and the legislation appertaining to war, and when writing on these subjects he responded to some of those criticisms.

The position of women: marriage and divorce

¹⁸³ Ibid., p. 219.

¹⁸⁴ Ibid., p. 218 and Tafsir, p. 148.

¹⁸⁵ Tafsir, pp. 210-11.

¹⁸⁶ Aqida wa-Shari'a, p. 193.

Shaltut describes two extreme views with regard to the Muslim woman: on the one hand there are those who believe that she is oppressed and humiliated and seen as an inferior being with no rights, completely at the mercy of her husband's whims, while on the other hand there are those who, in their eagerness to defend Islam, put woman on a pedestal and glorify her position in every way.¹⁸⁷

When defending the position of Muslim women, Shaltut concentrates on the following areas: the attention which the Qur'an devotes to women in general and to certain women in history of outstanding qualities, as well as the position of women during the Prophet's lifetime,¹⁸⁸ women's rights in Islam,¹⁸⁹ the essential equality of man and woman as regards their worth as human beings, their spiritual life and religious responsibilities,¹⁹⁰ and the position of women in the Jāhiliyya period, which highlights the improvements in their status brought by Islam.¹⁹¹

As regards the relationship between husband and wife, he lays stress on the human and moral aspects of marriage. Instead of

¹⁸⁷Min Huda al-Qur'an, p. 291.

¹⁸⁸See, e.g., Min Huda al-Qur'an, pp. 291-97, Tafsir, pp. 162-67, Min Tawjihāt al-Islam, pp. 204-34, and ʿAqida wa-Shariʿa, pp. 217-18.

¹⁸⁹Min Huda al-Qur'an, pp. 299-302, and ʿAqida wa-Shariʿa, pp. 231-34 and 237-41.

¹⁹⁰ʿAqida wa-Shariʿa, pp. 12 and 234-37.

¹⁹¹Ibid., pp. 230-31.

concentrating exclusively on the dry legislation, as do those who criticise Islam, he points out that the Qur'an enjoins kindness and affection between them:

Good companionship (ihsān al-cishra) does not just mean the wife responding to the husband when he calls her, or him providing for her when she is hungry; rather, it is something which is known to everyone, and which is possible for all to attain - it is to do with the manner of looking and speaking, it is a spirit of love and affection which emanates from the man's heart and fills the woman's heart with pleasure and joy, and likewise comes from the woman's heart and holds sway over the man's heart, so that he enjoys an atmosphere of peace and security, as do the children.¹⁹²

While the husband and wife have certain carefully balanced rights and duties, and this distribution of work is conducive to domestic harmony, it is desirable that they should help each other in their respective duties in a spirit of cooperation, rather than each demanding their rights.¹⁹³ The Qur'an enjoins them to consult together and cooperate;¹⁹⁴ in the ideal marriage, the extent to which the wishes and feelings of the husband and wife merge is embodied in the Quranic description of them as a garment for each other.¹⁹⁵

Characteristically, though, Shaltut does not evade the issue of man's authority or "degree" (daraja, from Qur'an 2:228) over woman. He states that this does not give him any power of

¹⁹²Ibid., p. 156.

¹⁹³Ibid., pp. 154-56.

¹⁹⁴Ibid., pp. 158-59.

¹⁹⁵Ibid., p. 147.

coercion over his wife, but constitutes a kind of "domestic leadership", which gives the man added responsibilities and a duty of protection towards his wife as well as the degree of authority. The reason given for this is man's superior bodily strength and resolve (ʿazm), and his earning power. Shaltut sees the Quranic phraseology: "bi-mā faddala Allāh baʿdahum ʿalā baʿd" (4:34), rather than, for example, "bi-mā faddalahum ʿalayhinna" as an indication that it is not a question of inherent superiority but rather a differentiation of functions, "like the superiority (tafdīl) of one part of the body over another", as Shaltut puts it. Moreover in any community, great or small, leadership is essential for the preservation of unity.¹⁹⁶

As regards man's chastisement (ta'dīb) of his wife, Shaltut believes this to be a natural and necessary step in certain cases; he points out that the Quranic directives form a comprehensive system, of which physical chastisement is only the last resort, verbal admonishment (waʿz) and isolation (ḥajr) having failed, the desired effect of which is to hold the marriage together. An important advantage of this system is that it keeps the dispute within the confines of the marriage. Shaltut expresses confidence that any reasonable woman would prefer this

¹⁹⁶Ibid., pp. 156-57. One modern scholar deals with the phrase "baʿdahum ʿalā baʿd" more explicitly, denying that it necessarily refers to an excellence or superiority granted to men over women, on both grammatical and contextual grounds. He sees it rather as a general reference to the way in which God has conferred different types of excellence on different people, whether they be male or female - see ʿAbd al-ʿAṭī, op. cit., pp. 178-81.

system to one where she was allowed to persevere in behaviour which displeased her husband (a course which would put her marriage at risk), or one where disputes had to be settled by recourse to law, so that any trivial domestic upset could assume ridiculous proportions and endanger her family life.¹⁹⁷ Shaltut makes no apology for advising the wife, in cases where it is the husband who is at fault, to favour him with a kind word or a smile, etc., in order to bring him round, basing this on Qur'an 4:128: "If a woman fears perverseness (nushūz) or aversion on the part of her husband, it is no sin for them if they make peace between themselves...".¹⁹⁸ His use of the subheading "Talbīs wa-tamalluq" ("Deception and servile flattery") when describing those Muslims who consider the system of ta'dīb unduly harsh or derogatory to women, makes it clear that he considers them to be influenced by Western ideals.¹⁹⁹

"Divorce" or "repudiation" is not always an appropriate translation of the word ṭalāq as Shaltut uses it; for him it means the whole procedure which should be followed in the event of the husband or wife contemplating a divorce, and which contains so many checks and safeguards that a reconciliation will take place if at all possible. Furthermore, the procedures for ṭalāq and khul' (where the woman seeks a divorce from her husband), are only to be embarked upon as a final resort, after

¹⁹⁷Ibid., p. 164-65.

¹⁹⁸Ibid., p. 166.

¹⁹⁹Ibid., p. 165.

the husband and wife have tried to come to an agreement and appointed two arbiters in this cause.²⁰⁰

Thus talag is in fact a positive remedy for marital problems, except in those cases where it is made irrevocable. While recognising the importance of putting a stop to the abuses of the divorce laws which have taken place throughout Muslim history, including such things as pronouncing three divorces simultaneously, Shaltut denies the claim that the man's unilateral right of divorce in Islam is responsible for a high divorce rate. On the contrary, he attributes it to a fundamental misunderstanding of the Islamic divorce laws.²⁰¹

We have remarked upon the dangers of apologetics and the temptation to resort to generalisations or obscure authorities, and Shaltut is not entirely irreproachable here. For example, he brings in a fairly long quote by Muhammad 'Abduh on the subject of women, and we can safely assume it is quoted with approval, that includes the remark that fifty years ago (i.e. ca. 1850) European women were like slaves in every respect, just as they were with the Arabs in the Jahiliyya or possibly even worse;²⁰² and elsewhere he maintains that if Western woman were left to her own conscience, she would weep tears of blood over the loss of her dignity and happiness.²⁰³

²⁰⁰Ibid., pp. 166-77.

²⁰¹Ibid., p. 176, and Fatawa, p. 311.

²⁰²Agida wa-Shari'a, p. 155.

²⁰³Ibid., p. 219.

Polygamy

Opening a chapter on the subject of polygamy, Shaltut writes:

Polygamy is one of the areas where the fanatical voice of the West and its poisonous propaganda have been instrumental in making people critical of it, to the point where some of the Muslims themselves try continuously to make laws which place restrictions on it, while God did not place any such restrictions.²⁰⁴

He does not contemplate any compromise in this area; he believes that those who try to turn the Quranic exhortation to men to restrict themselves to one wife if they fear they cannot be just to their wives (4:3), into an effective ban on polygamy, due to the impossibility of absolute justice in this regard (4:129), are in fact making a mockery of the Quranic text, since polygamy is explicitly permitted in Qur'an 4:3.²⁰⁵ Similarly, with regard to those who allow polygamy but only under certain conditions, such as the sterility or illness of the wife, Shaltut maintains that if this was the case the Qur'an would have made those conditions clear.²⁰⁶

He is impatient with all the energy that has been directed towards restricting or banning polygamy, and he himself is much more concerned that young men are turning away from marriage altogether rather than marrying too many women. He is at least

²⁰⁴ Ibid., p. 178.

²⁰⁵ Ibid., p. 182. For examples of this opinion see, e.g., Qāsim Amīn, Tahrīr al-Mar'a, Cairo, n.p., 1899, p. 128, and °Abd al-°Azīz Fahmī, Hādhihi Hayātī, Cairo, Kitāb al-Hilāl, n.d., pp. 166ff.

²⁰⁶ Ibid., p. 186.

half-serious when he says that instead of banning or restricting polygamy, those in authority should on the contrary be putting an upper age-limit on celibacy and making laws to help rather than hinder those who choose to marry more than one wife.²⁰⁷ However, he does not pretend that polygamy is suitable for everyone, but believes that its possible good outweighs the potential problems, and the exceptional cases where grave problems do arise do not justify the total prohibition of polygamy.²⁰⁸

In this contentious area Shaltut is again tempted to include some material of doubtful authority. A list of the reasons Muslim scholars have put forward for polygamy - a list to which Shaltut gives the seal of approval for being based on reality - includes, alongside the more usual reasons such as the possibility of a shortage of men due to war etc., and the fact that the woman is sexually indisposed at times due to menstruation and child-bearing, the assertion that the fact that the woman reaches the menopause at around fifty means that there may be forty or fifty years at the end of a marriage where the husband suffers sexual

²⁰⁷Ibid., pp. 193-94; cf. also Tafsir, p. 296.

²⁰⁸Ibid., p. 189.

frustration.²⁰⁹ This statement is medically inaccurate,²¹⁰ or at least is only true in exceptional cases.

Under the heading, "A lesson from the West",²¹¹ Shaltut states that the prohibition of polygamy has the effect of raising the proportion of foundlings and children killed at birth, "as the French writers themselves know and acknowledge"; this may be a fair enough assumption given the social conditions prevailing in Europe earlier this century, i.e. the stigma attached to illegitimacy, so the vagueness of the authority is excusable; however, the authority which he then gives for the improprieties which sometimes take place between foundlings and those in charge of them is a conference held by the French government in 1901—somewhat outdated for a subject which is so susceptible to changing social conditions.

²⁰⁹Ibid., p. 181.

²¹⁰To quote W.H. Masters and V.E. Johnson, in Human Sexual Inadequacy, London: J. & A. Churchill Ltd., 1970, p. 335, "Nothing could be further from the truth than the often-expressed concept that ageing women do not maintain a high level of sexual orientation." Shaltut's view may have been prompted by a confusion or identification of sexual with reproductive ability, although in Islam there is no puritanical view that reproduction is the sole aim of sexual relations.

Rashīd Riḍā presents the same argument slightly differently, in that the emphasis is on reproduction rather than sexual fulfilment; assuming that the woman becomes infertile at fifty, while the man remains fertile all his life, which Rida assumes for the purposes of argument to be a hundred years, by marrying only a woman of his own age he loses fifty years of his reproductive life - see Tafsīr al-Manār, 4:352. (One wonders how many hundred year-old fathers of new-born children Rida was acquainted with.)

²¹¹ʿAqida wa-Shariʿa, pp. 191-93.

He then quotes from an "English authoress", who laments the increasing numbers of vagrant girls and women, and sees an answer to this problem in polygamy.²¹² Being anonymous, the quote is of little value; in any case it is probably from an obscure source. However, it is unusual for Shaltut to quote from such sources, and these are the only instances we have come across; in general he is far less inclined to such things than many other writers of his time.

War

In his tafsīr of Sūrat al-Anfāl, Shaltut discusses some of the Islamic teachings concerning war. In one passage he describes two allegations which are commonly directed against Islam by those who oppose it - firstly, the accusation that in Islam war is a legitimate means of forcibly converting people to the faith, and Islam was in fact spread by the sword, and secondly, the accusation that the Muslims went out to fight at Badr solely for the sake of plunder and booty, and not to defend their religion.²¹³

He refutes the first charge by saying that faith comes from the heart and cannot be forced, and the whole of the Islamic teachings are against a false, superficial faith, consisting merely of external actions, and by quoting the Qur'an: "There is no compulsion in religion" (2:256), and "Would you (O Muhammad) force men to be believers" (10:99), and other passages which show

²¹²Ibid., p. 192.

²¹³Tafsir, p. 522.

that superficial or forced faith is not acceptable to God and that the Prophet is not responsible for those who disbelieve.²¹⁴ He points out that in many cases Islam was spread by trade and peaceful travel.²¹⁵

He then seeks to clarify the legitimate causes of war, by relating the stages of Muḥammad's mission and showing how much the Muslims endured before being permitted to fight, and by showing how the verses which first permitted fighting (22:39-41) explicitly state oppression as a cause, and describe war as an essential part of life whereby holy places are defended.²¹⁶ He then quotes other verses which mention the causes of war, such as repelling attack, defending those who are weak and oppressed, fighting those who violate their agreements or who attack the Muslim religion in some way, and he points out that none of them give any hint of compelling people to accept Islam, or of fighting simply due to difference of religion. On the contrary, Muslims are allowed to have good relations with ahl al-kitāb, to enter into agreements with them and to marry their womenfolk.²¹⁷

Shaltut then deals with two specific texts which the opponents of Islam have singled out in their accusations. The first of these is Qur'an 9:123: "O you who believe! Fight those of the disbelievers who are near to you...". He disagrees with those who

²¹⁴ Ibid., pp. 523-25.

²¹⁵ Ibid., p. 526.

²¹⁶ Ibid., pp. 528-29.

²¹⁷ Ibid., pp. 529-31.

believe that this verse constitutes an order to fight the polytheists until they accept Islam, whether or not they are aggressors, maintaining that it is in fact an instruction in war-strategy, i.e. that the Muslims should first of all fight those (aggressing) polytheists who are nearby, in order to clear the way to deal with those who are farther away. Secondly, regarding the hadīth which says: "I have been ordered to fight people until they say: "There is no God but God" , he simply says that the "people" ("al-nās") here referred to are those aggressors etc. who are mentioned in the Quranic verses permitting fighting. This is fair enough as far as it goes, but he fails to explain the latter half of the phrase: "until they say..."; it is uncharacteristic of Shaltut to evade issues, and this leads us to believe that he does not see this part of the phrase as problematic. He is silent on it, perhaps in the assumption that it is in the nature of a negative conditional clause, i.e. unless they say "There is no God but God", that is, this circumstance would be one of the circumstances which necessitate an end to the fighting.²¹⁸

Refuting the second charge, concerning the Battle of Badr, Shaltut states that confiscating the enemy's wealth is a means of weakening him and is a natural part of warfare; in many cases the Muslims had lost their homes and belongings to the Quraysh, so it

²¹⁸The context of the phrase backs up this idea, for the Prophet goes on to say: "fa-idhā fa'alū dhālik, °aṣamū minnī dimā'ahum wa-amwālahum"; see Wensinck for a list of references for this hadīth.

was appropriate that they should recover some of what they had lost. In any case, if the Muslims had wanted only plunder they could have attacked easier targets than the Quraysh. Thus the aim of the Battle of Badr was clearly for the Muslims to secure themselves against their enemy, and to work towards establishing their right to worship freely in their holy shrine of Mecca.²¹⁹

In his conclusion to this passage, Shaltut writes: "This is what every believer should know, so that he may be secure against false claims and allegations", showing that he has gone to the trouble of refuting these charges for the benefit of the Muslims, rather than for the sake of indulging in polemics with non-Muslims.

We have described this passage in some detail because it is the only long passage where Shaltut defends Islam against specific accusations. We can observe that the tone of the passage is in keeping with the rest of his tafsīr and his writings in general; he is sober, for example warning against hasty judgements based upon what may be a fortuitous link between two circumstances rather than a causative one, instead of an examination of the facts and sources.²²⁰ He bases his arguments on the Qur'an and the life of the Prophet, and on uncontroversial factual information.

As regards the charge that Islam may be spread by the

²¹⁹ Tafsir, pp. 532-33.

²²⁰ Ibid., pp. 522-23.

sword,²²¹ Shaltut is successful in refuting this as a principle of Islam and is justified in confining himself to the Islamic sources rather than the opinions of the fukahā', most of whom believed that polytheism was in theory not to be tolerated at all. Although he could perhaps have dealt more fully with the aforementioned hadīth: "I have been ordered to fight...", he refrains from far-fetched and unsubstantiated explanations. Taken as a whole the passage is straightforward and unaffected, and avoids the pitfalls of polemical or apologetic writings.

iv) Conclusions

While there is comparatively little direct response to the West in Shaltut's writings, and no obvious conciliation of Western values, the desire to show Islam's rationality, tolerance, flexibility etc. received its initial impetus from the Western challenge. However, this does not mean that these qualities were artificially grafted onto Islam - on the contrary, there is clear evidence for all of them in the Islamic sources. The fact is that these qualities had been somewhat neglected in past centuries, while Muslim countries were prey to tyrannical rulers or Sufi-type superstitions, or the control of 'ulamā' who adhered rigidly to the established schools of law, practicing taqlīd and denying the right of ijtihād.

²²¹ Among Orientalists the theory that Islam was spread by the sword is more or less outdated; however, the somewhat bloodthirsty image of Islam remains, and is rarely contradicted by current events, so Shaltut's defence of Islam in this respect remains necessary.

Nineteenth century Europe may have arrived independently at a recognition and appreciation of these values - a fact which only reaffirms their inherent validity - and this may have acted as a catalyst on Muslims, who realised with a shock that in some areas Europe appeared to be more enlightened than the Muslim countries; but this does not mean that these qualities are not an authentic part of Islam. It is only when Muslim writers go to extremes in their attempts to defend Islam, falling into the pitfalls we described earlier, that these claims seem clumsy and artificial.

As far as Shaltut is concerned, there is no doubt that he perceives these qualities in Islam independently of any external or foreign criteria. When he does occasionally respond to external criticisms, it is only on very general matters where everyone is aware of the controversy, such as the status of Muslim women. He is not concerned with the finer points of Muslim-Orientalist polemics, but prefers to concentrate his energies on Islam and the Muslims; in his own firm conviction of the beauty and self-sufficiency of Islam, he only wishes to demonstrate this to others, so that they may be equally convinced of the viability of Islam as a way of life in the twentieth century.

c) Social Evolution and Religious Conservatism: Selected Social Issues

We aim to concentrate here on areas which are most sensitive to social change, and in which therefore opinions tend to be

diversified. These will provide the best illustrations of the way in which Shaltut has adapted religious precepts to modern conditions. We have selected the areas of the status of women, birth control and financial institutions, in order to identify the extent to which he is typical of his milieu, and the scope of his real ijtihād.

i) The status of women²²²

We discovered in the section on the impact of imperialism that Shaltut was not particularly apologetic when it came to issues such as polygamy and the husband/wife relationship. In these matters the Quranic pronouncements were regarded as sacrosanct and Shaltut condemned the attempt to twist the explicit Quranic permission for polygamy into an effective ban thereof.

The issue of polygamy has become a highly sensitive one in modern times, and the attention paid to it has been disproportionate to its actual social relevance. Even Shaltut, who is relatively isolated from Western influence, devotes twenty pages to the subject, no doubt in view of the legal changes with regard to polygamy, of which he did not approve.

Muḥammad ʿAbduh saw polygamy as an unmitigated social evil, arousing jealousy which could result in any of a long list of vices and crimes, including murder. The reason given for its permissibility in the Prophet's age was that people were more

²²²This area was discussed in section 2b of this chapter in the context of the defensive reaction to Western influence; here we will concentrate on the range of opinions among Muslims themselves.

pious in those days, and this helped to contain the undesirable effects of jealousy.²²³ Rashīd Riḍā, while describing certain circumstances which might justify polygamy, maintains that monogamy is the norm and the ideal, and polygamy is permitted only in cases of necessity.²²⁴ The opinion of some of the more extreme modernists such as Qāsim Amīn, that polygamy was in fact prohibited, has lost some ground perhaps because of its association with undue Western influence, and the debate has subsequently revolved around whether polygamy is in the nature of a "licence" for specific circumstances such as the sterility of the wife or a shortage of men, which appears to be the prevalent modernist opinion, or whether it is in fact wholly unconditional, which is the opinion of Shaltut.²²⁵

It may be informative here to look at the opinion of a more recent Muslim modernist who, while not apologetic or defensive in tone, has an unusual intellectual flexibility by virtue of being conversant with both Islamic and Western culture, and appears to be attempting to tackle contemporary Islamic issues in an open-minded fashion. This scholar, Fazlur Rahman, does not resort to the hermeneutic contortions of some of the earlier apologists who tried to show that polygamy was effectively prohibited, but sees the Quranic injunctions on polygamy (i.e. to be just to wives and

²²³Tafsīr al-Manār, 4:349.

²²⁴Ibid., pp. 350ff.

²²⁵See Jansen, op. cit., p. 93, and ʿAqida wa-Sharīʿa, pp. 185-86, under "Al aṣl ibāḥat al-taʿaddud".

keep to only one if this is not possible) as a sanction which constitutes "a moral ideal towards which the society was expected to move, since it was not possible to remove polygamy legally at one stroke". In this respect, the case of polygamy is seen as comparable to that of slavery.²²⁶

The whole issue of male/female equality is one which modernists feel bound to tackle. The moral context of man's authority over woman is stressed by Shaltut and others:

The husband's authority is not the absolute or despotic type. It is restrained by the ethical principles of the Qur'an and...is based on equity, guarded by compassion, and guided by conscientiousness, principles which underlie the husband-wife relationship in the Islamic scheme of society.²²⁷

However, while Rahman's statement that man's superiority over woman is functional rather than inherent may accord with Shaltut's view, the logical conclusion which he draws from this, namely "if a woman becomes economically sufficient...the male's superiority would be to that extent reduced", is something that one cannot imagine Shaltut saying.²²⁸ Similarly the suggestion

²²⁶Fazlur Rahman, Major Themes of the Qur'an, Chicago: Bibliotheca Islamica, 1980, p. 48.

²²⁷Abd al-ʿAtī, op. cit., pp. 181-821; Shaltut (ʿAqida wa-Shariʿa, pp. 146ff.) is given as one of the references for this passage.

²²⁸Rahman, op. cit., p. 49; John Esposito espouses a similar argument by means of a "hierarchisation" of Quranic values, whereby the moral and religious equality of the sexes is an ethico-religious value which is therefore not subject to change, whereas the "superiority" or "degree" granted to men in the Qur'an depends on socio-economic factors, and is therefore subject to change - see J. Esposito, Muslim Family Law in Egypt and Pakistan: A critical analysis of legal reform, its sources

that the laws of inheritance could be studied further in the light of today's realities²²⁹, (i.e. women's greater economic independence) would, one feels, be abhorrent to Shaltut.

However, there is one point on which the opinions of Rahman and Shaltut converge, namely that the Quranic verse on the subject of credit transactions which regards two female witnesses as equivalent to one male witness (2:282), was due to the fact that in the Prophet's age women were not conversant with such matters, and therefore would be less reliable as witnesses concerning them. While a "traditionalist" would, in Rahman's opinion, consider it socially undesirable that a women should become conversant with financial transactions, a modernist would have no such reservations, and would assert that the testimony of a woman who was familiar with such matters would be equal to that of a man.²³⁰ According to this criterion, Shaltut is a modernist. Like Muhammad 'Abduh, whom he quotes, he rejects the jurists' application of this verse to legal testimony in general, and sees such an interpretation as an assertion that woman has a weaker mind, which in turn would imply that she is inferior as a human being.²³¹

and methodological problems, Ann Arbor, Michigan: University Microfilms International (facs.), 1980, pp. 268-69.

²²⁹Rahman, op. cit., p. 51.

²³⁰Ibid., p. 49. For a conservative viewpoint, see Muhammad Qutb, op. cit., p. 105, where the author opines that "The woman is by her very nature vehemently emotional, impressionable and liable to digress from the real facts of the case in hand."

²³¹Agida wa-Shari'a, p. 240.

In controversial social issues it becomes clear that even a scholar of the status and integrity of Shaltut finds it hard to take a wholly consistent attitude with regard to the Quranic text. For example, he resents any attempt to tamper with the Quranic permission for polygamy, but as we mentioned in Chapter Three, on the subject of marrying the women of ahl al-kitāb, he suggests that in certain social conditions it might be justifiable to suspend the Quranic permission to marry them.²³² Again, on the subject of female witnesses, as we have just seen, he considers the Quranic provisions to be subject to modification in the light of changed social conditions.

However, one can easily detect reasons for Shaltut's attitude in each individual case, and these reasons lie in his socio-cultural environment rather than in the Qur'an itself. On the subject of polygamy it is clear that he is objecting to the mental servitude to the West on the part of certain Muslim reformers and legislators, and the strength of his feeling leads him on occasion to over-compensate in his counter-arguments, as where he suggests imposing an upper age limit on celibacy and offering financial help to those who practice polygamy, instead of banning or restricting it.²³³ Again, on the subject of

²³² Supra, p.

²³³ Ibid., p. 194; he also rejects the idea that men who wish to practice polygamy should undergo a means test, arguing that it is in fact preferable for poor people to practice polygamy than for rich people to do so, since the poor are used to living in mutual cooperation and making the best of things, and the poor man cannot afford to buy luxuries which could arouse jealousy among co-wives - see ibid., p. 195.

marrying the women of ahl al-kitāb, we have already had occasion to mention the fact that he was reacting to abuses which he witnessed in his own environment, arising from the cultural infatuation with the West.

In the case of female witnesses, it would be difficult to maintain on the one hand that women's humanity and spirituality is in every way equal to that of men,²³⁴ and on the other that she is less intelligent or has a weaker memory than her male counterpart. The line taken by Shaltut, Rahman and others regarding the provisions of Qur'an 2:282, namely that they are subject to changing social conditions, is the only one which avoids this conclusion.²³⁵

ii) Birth control

On this issue, Shaltut relates the opinions of the classical scholars in some detail. Their opinions depend in some measure on their views concerning the extent to which the child is "the right of the parents" (ḥaqq al-wālidayn) or "the right of society" (ḥaqq al-umma). Those who stressed the parents' right were on the whole lenient concerning justifications for contraception; al-Ghazālī, for instance, sees the preservation of the woman's beauty as a valid reason.²³⁶

²³⁴ Ibid., pp. 234-37.

²³⁵ Rashīd Riḍā, however, writing over half a century ago, attributed man's daraja over women to "the strength of his body and his mind" - see Tafsīr al-Manār, 4:354.

²³⁶ Aqida wa-Shari'a, pp. 199-200.

Shaltut responds to this by arguing that the classical scholars neglected ḥaqq al-umma because on the one hand marriage was virtually universally practiced in those days and people took pleasure in having many children, and on the other hand the Islamic umma was then so vigorous and powerful that no danger was anticipated to it from this quarter. If they could have seen the present weakened and diminished state of the Muslim umma, and the way in which people are abstaining from marriage and procreation for frivolous and selfish reasons, Shaltut maintains that they would have declared contraception to be ḥarām except in cases of extreme necessity.²³⁷

However, having established the right of the umma to an abundant population, Shaltut goes on to stress the importance of the health and strength of that population, and he relates the implications of this for birth control in Islam. For example, in the case where a man or his wife have a hereditary disease, it may be obligatory for them to use contraception on pain of being forcibly separated. Even given a healthy mother and father, it is desirable to plan the family in a way that is conducive to good health and upbringing. In effect, this means spacing the births in such a way that the mother can complete the suckling of one child (ideally two years) before falling pregnant with the next, in view of the ḥadīths which warn of the harm which may otherwise

²³⁷Ibid., pp. 205-6.

befall the suckling infant. This also gives the mother some respite in between births.²³⁸

Shaltut then discusses the case of those who anticipate difficulty or hardship in raising their children, due for example to straitened circumstances or "weakness of nerves".²³⁹ Here, he feels that just as the society has certain rights with regard to the birth of children, so it has a responsibility to give material help to those whose poverty prevents them from bringing up children in a healthy and desirable manner.²⁴⁰ If such help is not forthcoming, then contraception is fully justified, even positively recommended, according to the principle: al-darar madfūc bi-qadr al-imkān.²⁴¹

For Shaltut, the Quranic verses and aḥādīth which generally encourage marriage and procreation are sufficient to show that any birth-control movement on a major scale, or any national programmes for the control of population, are un-Islamic.²⁴² Once

²³⁸ Ibid., pp. 211-12.

²³⁹ Shaltut uses the phrase dufc al-a^csāb; he seems to be referring generally to those who are of irritable or nervous disposition rather than to a particular medical complaint, i.e. nervous debility, otherwise one would have expected him to refer to health reasons generally rather than singling out a specific health problem.

²⁴⁰ Aqida wa-Shari'a, p. 213.

²⁴¹ Fatawa, pp. 296-97.

²⁴² Ibid., p. 296; it should be borne in mind that at the time when Shaltut was writing birth control on a national scale was a highly sensitive issue, being seen by some as an imperialist ruse to weaken Muslim countries - see, e.g., Muḥammad ^cAbd al-Salām al-Qubbānī, Taḥdīd al-Nasl, in Majallat al-Azhar, 29 (1957/58), pp. 550-52.

one has drawn the distinction between societal measures to limit population and individual measures to plan it, however (in Arabic the former is referred to as tahdīd al-nasl and the latter as tanzīm al-nasl), the issue becomes a moral rather than a legal one. Since the fear of hardship due to a lack of means or a delicate temperament could no doubt be made to apply to a considerable proportion of the population, especially in the third world, it is effectively a matter of conscience. However, Shaltut does express the opinion that the need for contraception would apply only to a small minority of the population.²⁴³

A fatwā obtained by the Jordanian government in 1964 from the Grand Muftī of Jordan, Shaykh ʿAbdullah al-Qalqilī, provides an interesting contrast to Shaltut's approach.²⁴⁴ The aim of the fatwā is to show that there is nothing in Islam against contraception, whatever the circumstances, and the Qur'an, the Sunna and the classical jurists are all quoted in support of this view. The Shaykh reasons that the hadīth which advises celibacy until a man is financially in a position to marry constitutes permission to abstain from procreation altogether, and that any restriction of procreation must therefore be legal. The ahādīth which mention the Prophet's approval of ʿazl (coitus interruptus) are referred to, but there is no mention of those which mention

²⁴³ Ibid., p. 297.

²⁴⁴ Reproduced in English translation in Donahue and Esposito, op. cit., pp. 194-96.

his disapproval of it.²⁴⁵ It is argued that if ʿazl is permitted, then so is abortion before the animation of the foetus. Isolated authorities are given in support of this; the statement: "The jurists think that during this period (i.e. the first 120 days) the embryo or the foetus is not yet a human being" totally ignores the opposite school of thought, contrasting with Shaltut's exposition of both opinions.²⁴⁶

This fatwā, with its highly selective use of sources and specious reasoning, provides an example of the manipulation of the sources in order to support vested interests - presumably in this case the government's belief in the economic desirability of population control. Both al-Qalqilī and Shaltut cite modern social conditions as an important factor, but for very different reasons, the former stressing the dangers of unchecked population growth while disregarding the moral aspect, while Shaltut refers to the morally reprehensible abstention from marriage and procreation which may be witnessed today. The difference in emphasis must be due in some measure to different data available to the two men, for Shaltut sees a large population as conducive to national strength, and it could therefore be said that utilitarian considerations are important for both men. The methods of al-Qalqilī, however, are somewhat less scrupulous.

²⁴⁵Eg. those which compare ʿazl to infanticide, two of which are related in ʿAqida wa-Shariʿa, p. 201.

²⁴⁶See ibid., pp. 203-4.

iii) Financial transactions

The most important debate in this area revolves around the issue of ribā - its definition, and whether or not it is permissible in cases of necessity. This question is of vital concern to Muslims in view of the fact that no Muslim economy has been able to wholly avoid resorting to interest in its financial dealings, despite the prohibition of ribā in the Qur'an and the Sunna.

In his interpretation of Qur'an 3:130: "O you who believe! Devour not usury, doubling and quadrupling..." (aḍāfan mudā̄afatan), Shaltut disagrees with those who use this phrase to argue that it is only exorbitant interest (al-ribā al-fāhisha) that is prohibited. He maintains that the phrase aḍāfan mudā̄afatan is descriptive and emphatic rather than qualificative, and points out that the prohibition of ribā elsewhere in the Qur'an and Sunna has no such qualifications.²⁴⁷ Nor does he agree with those who see interest as an inescapable feature of modern life, and who blame the prohibition of ribā for the economic backwardness of the Muslims. Such beliefs are seen as a symptom of disillusionment with the Shari'a as a whole, and of infatuation with Western civilisation.²⁴⁸

Shaltut boldly asserts that if Egypt were to implement the Shari'a and prohibit all its citizens from transactions involving ribā, substituting an interest-free financial system, then it

²⁴⁷Tafsir, pp. 150-51.

²⁴⁸Ibid., pp. 147-48.

would not suffer as a result. He claims that this belief is not unrealistic, for if transactions involving interest are prohibited, people will seek other ways and grow accustomed to them. He states simply that the economy could be organised in accordance with Islamic principles "if people sincerely desired it".²⁴⁹

He argues against those who use the principle al-darūrāt tubīhu al-mahzūrāt to justify ribā; he sees such methods as a sign of weakness, or even worse, religious effrontery ("jar'at calā Allāh"), motivated by the desire to keep up with modern or Western civilisation and disown one's Islamic identity. He feels that such reasoning is insidious and leads to the undermining of the Shari'a as a whole.²⁵⁰

It emerges from the foregoing that Shaltut sees any kind of interest as ḥarām; in his objection to the use of the phrase ad'āfan mudā'afatan to justify certain types of transaction involving interest he specifically mentions banks, Post Office savings and government bonds.²⁵¹ While he concedes that the Quranic prohibition in 3:130 applies to the jāhiliyya practice of ribā al-nasī'a, and he mentions the jurists' disagreement as to whether ribā al-faḍl is in fact covered by the Quranic

²⁴⁹ Ibid., pp. 149-50.

²⁵⁰ Ibid., pp. 151-52.

²⁵¹ Ibid., p. 150.

prohibition, he himself believes that the prohibitions in the Qur'an and Sunna cover all types of ribā.²⁵²

Thus far, then, Shaltut would appear to be in accordance with the uncompromising "fundamentalist" viewpoint such as, for example, that of Maududi.²⁵³ However, in his fatwās on the subject of cooperatives, Post Office savings and bank loans we see the pragmatic side of Shaltut emerging.

In the case of cooperatives and Post Office savings,²⁵⁴ Shaltut concentrates on the benefits for all concerned which accrue therefrom, and the fact that both parties enter into the agreement willingly, so that there is no hint of exploitation or injustice.²⁵⁵ The man who takes his savings to the Post Office is on the one hand displaying a laudable frugality and on the other

²⁵²Ibid., pp. 140 and 151; the traditional view is that "ribā al-faḍl" is prohibited on the principle of "ṣadd dharā'ic al-fasād," i.e. if sanctioned it could lead in an insidious way to the practice of "ribā al-nasī'a" - see Tafsīr al-Manār, 4:125, and °Abd al-Karīm al-Khaṭīb, Al-Siyāsāt al-Māliyya fī al-Islām wa-Ṣilatuhu bi'l-Mu'āmalāt al-Mu'āṣira, 2nd ed., Cairo: Dār al-Fikr al-°Arabī, 1976, pp. 151-52.

²⁵³Malise Ruthven, Islam in the World, New York: Oxford University Press, 1984, p. 329.

²⁵⁴Fatawa, pp. 348-52.

²⁵⁵A former pupil of Shaltut, however, whose opinions usually accord with Shaltut's own, when on the subject of life insurance, rejects this argument with impeccable logic on the grounds that even two gamblers could be described as willing participants, but this does not render gambling licit; see Yūsuf Qaradāwī, Al-Halāl wa'l-Harām fī al-Islām, 2nd ed., Beirut: Al-Maktabat al-Islāmī, 1978, p. 264. Muḥammad al-Madani, however, goes even further than Shaltut in considering the willingness of the participants to be the sole criterion for evaluating the permissibility of a transaction, see Al-Mujtama' al-Islāmī kamā tunazzimuhu Sūrat al-Nisā', p. 232.

hand contributing to the overall national prosperity by providing employment for Post Office workers and bolstering the government's investments.

In each case Shaltut has no particular objection to the fact that the rate of return is fixed. He simply states that in the Post Office, financial loss is virtually unheard of, and in the case of cooperatives there must exist certain provisions for financial loss in the company statutes, of which the participants would be aware. The risk element, then, is presumably so small as to be acceptable.²⁵⁶ Shaltut sidesteps the objection that fixed rates cannot reflect profit and loss by arguing that since these institutions are entirely new and do not come under any of the classical categories of financial transactions such as mudāraba, the stipulations laid down concerning those transactions do not apply here.²⁵⁷ Another contemporary scholar, °Abd al-Karīm al-Khaṭīb, argues even more ingeniously that although one has to concede that any transaction involving interest constitutes ribā, in certain cases the harmful effects of ribā have been removed. This means that the ribā is no longer ḥarām, just as if a new

²⁵⁶ °Abd al-Karīm al-Khaṭīb in op. cit., p. 197, uses a similar empirical argument, maintaining that financial transactions have now reached such a level of sophistication that experts can predict overall profit levels with a fair degree of accuracy.

²⁵⁷ Inconsistently, he objects to government bonds (ṣanadāt) on the grounds that the interest bears no relation to profit and loss. He mentions without specifying them "the evils of bonds, which are well-known to people and confirmed by economists", and the motivation behind his argument no doubt lies in this overwhelmingly practical consideration - see Fatawa, p. 355.

type of wine were to be manufactured with all the attributes of wine except that of iskār (causing intoxication), it would be halāl.²⁵⁸

Bank loans with interest are less easy to defend, but more vital on a national scale to the economies of developing countries like Egypt. Contemporary religious scholars are acutely aware of this dilemma, and usually concede that if Egypt is faced with a choice between economic isolation and regression, and borrowing on interest in order to develop her economy, then the latter is the lesser of the two evils, at least in the short term. It is made clear, however, that this is a concession to specific circumstances, and not an acceptance of interest as an unavoidable feature of the world economy.²⁵⁹

Despite his dismissal of this view in his "Tafsir", in a fatwā concerning bank loans Shaltut states that the one who borrows on interest out of necessity does not share in the guilt of the usurious transaction, since he is in effect constrained (mudṭarr) to do so, and is thus covered by Qur'an 6:119: "God has made plain to you what is forbidden, except when you are constrained".²⁶⁰ The way in which he goes on to reason that this can apply to nations as well as individuals, enumerating the various essential heads of expenditure such as agriculture, defence, trade and industry, indicates that it is principally the

²⁵⁸ al-Khaṭīb, op. cit., p. 198.

²⁵⁹ Ibid., pp. 167-68, and Tafsir al-Manar, 4:128-30.

²⁶⁰ Fatawa, pp. 353-56.

interests of the national economy that Shaltut has in mind here. Although he stipulates that the need should be real, he appears to all intents and purposes to have sanctioned borrowing on interest for the sake of maslaha rather than absolute and dire necessity; admittedly it would be exceedingly difficult to draw a clear distinction between the two. Shaltut thus departs from his former stand on the use of the principle al-darūrāt tubīh al-mahzūrāt to justify usurious transactions.

Conclusions

The use of terms such as "conservative" or "progressive" in the context of social issues can be confusing; on the subject of polygamy, for example, the extreme modernist "restrictive" interpretation, such as that of Qāsim Amīn, would no doubt be regarded by some as a retrograde step, an abandoning of Islamic principles in order to draw closer to Western-inspired values. While Shaltut's views on polygamy may appear by contrast conservative, he is after all only arguing that the matter should be left up to the conscience of the individual rather than being restricted by legislation. The same could be said of his opinions regarding family planning.

Shaltut often tackles contemporary problems with a commendable open-mindedness; his advice that fiances should be given the opportunity to become acquainted (in the presence of chaperons) is seen as positively utopian by an eminent Orientalist, in view of the prevailing socio-cultural conditions in Egypt of the

'fifties and 'sixties.²⁶¹ A former colleague of Shaltut's at al-Azhar, Dr. Zakī Badawī, related an incident that illustrates Shaltut's openness to new possibilities. When Mr. Badawī suggested in 1961 to the Malaysian ʿulamā' that an investment fund should be set up so that people could make regular contributions towards the costs of performing the ḥajj instead of selling all their land and thus rendering themselves destitute, he encountered considerable resistance from the ʿulamā' who feared that such an institution would contravene Islamic financial principles. Shaltut, however, who happened to be visiting Malaysia at the time, supported the suggestion immediately and unreservedly.²⁶²

As regards Shaltut's contradictory writings on the subject of financial transactions involving interest, one can only conjecture that in the interval²⁶³ Shaltut acquired new information or became more directly concerned about the practical problems of governing the country. Most probably the fatwā was issued in a spirit of sympathy with the general aims of Nasser's socialist government, while the passage in his "Tafsir" was

²⁶¹See ʿAqida wa-Shariʿa, pp. 148-49, and Y. Linant de Bellefonds, A propos d'un livre récent du recteur d'al Azhar, in Orient, 5 (1961), No. 19 (3ième trimestre), p. 34.

²⁶²In a conversation with this author on 23rd May 1988.

²⁶³It has not proved possible to identify the precise dates when individual fatwās were issued, but the tone of this one, with its emphasis on aspects of the national economy, accords with Shaltut's writings of the late 'fifties/early 'sixties, making it probably a decade later than the views put forward in his tafsir.

written with the primary aim of urging Muslims not to be cynical or defeatist about the viability of an Islamic, interest-free economy. Both passages taken together give a clear illustration of Shaltut's two, sometimes conflicting, sides: the idealist and the empiricist.

As Shaykh al-Azhar with a traditional religious education, and without a knowledge of any European language or culture, it would seem appropriate to describe Shaltut as "conservative", even if certain of his views coincide with those of certain modernists. On the other hand, one could not say of him that which Gibb said in 1945 of the class of 'ulamā' in general: "They are losing touch with the thought of the age."²⁶⁴

If anything Shaltut could perhaps be described as moderate, on the one hand desiring to accommodate the Islamic teachings as far as possible to modern conditions, as we have seen in his fatwās on financial transactions and his opinion on female witnesses, for example, and on the other, ever-mindful of the precepts of the Qur'an and Sunna. Generally speaking his religious training and conviction prevents him from manipulating the sources in a way that less religiously minded reformers have done.²⁶⁵

One theme which has occurred in all chapters of this work is that of ijtihād, and in view of its centrality to the thesis it seems appropriate to end with a few comments on that subject.

²⁶⁴H.A.R. Gibb, Modern Trends in Islam, p. 122.

²⁶⁵See, e.g., the description of some of Bourguiba's rationalisations for reform in Norman Anderson, Law Reform in the Muslim World, London: Athlone Press, 1976, p. 63.

While in theory ijtihād is restricted to matters not laid down in the sources, it seems that even Shaltut feels compelled to encroach on the Quranic legislation in certain cases (e.g. the case of female witnesses and marriage to the women of ahl al-kitāb). While this can no doubt be rationalised by drawing a distinction between those rulings which represent "solutions" specific to the age of revelation, and those which represent eternally valid "commandments",²⁶⁶ or between "legal enactments" and "moral injunctions",²⁶⁷ such distinctions can never be wholly objective and there will inevitably be disagreement on individual cases.

As regards the role of ijtihād in evolving social patterns in the modern world, the development of religious thought does not of course take place in a socio-cultural vacuum; however, one could reply to a contemporary Orientalist who maintains that it is outside forces and not ijtihād which constitutes the "real motor of change",²⁶⁸ that ijtihād was never meant to be more than the instrument of change, the professed aim being the benefit of Muslims and of mankind.

²⁶⁶M. S. El-Awa, op. cit., p. 86.

²⁶⁷Rahman, op. cit., p. 47.

²⁶⁸Jansen, op. cit., p. 91.

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