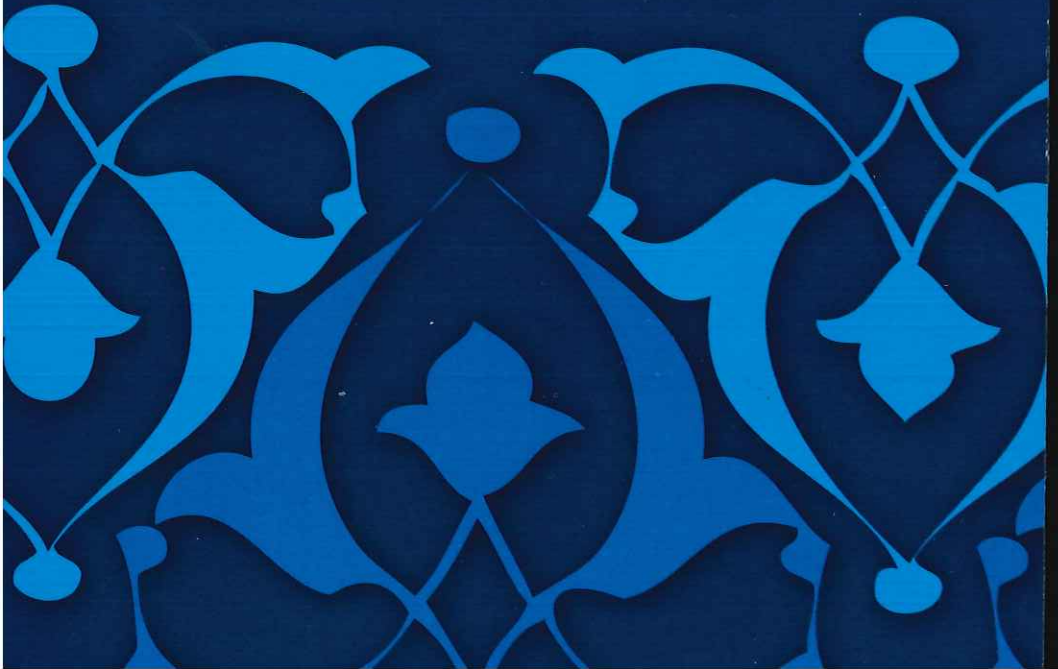


REVISED EDITION

Principles of Islamic Law  
The Methods of  
Interpretation of the Texts

*(Uṣūl al-Fiqh)*

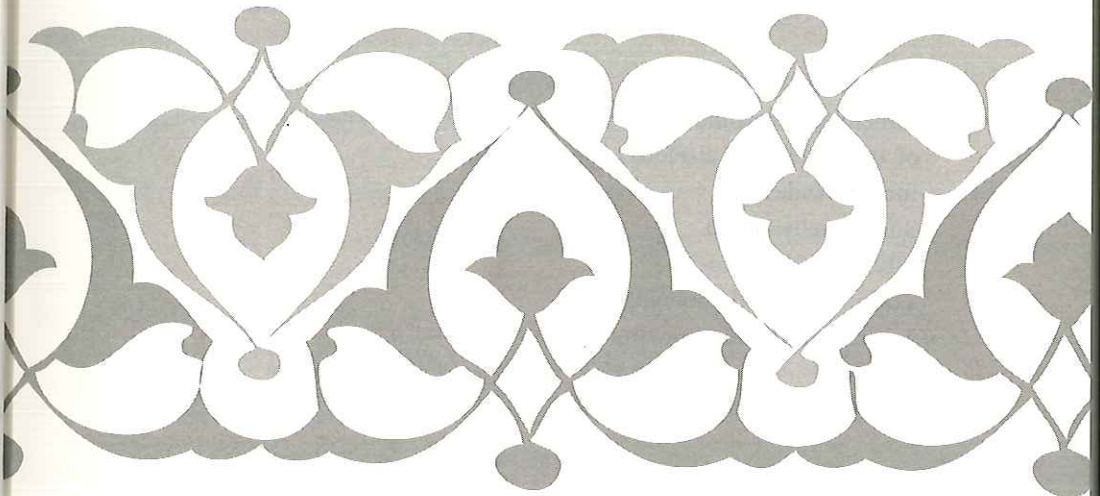




Principles of Islamic Law  
The Methods of Interpretation of the Texts  
(*Uṣūl al-Fiqh*)

Principles of Islamic Law  
The Methods of  
Interpretation of the Texts  
(*Uşūl al-Fiqh*)

Saim Kayadibi



IBT

Islamic Book Trust  
Kuala Lumpur

© Islamic Book Trust 2018

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording or otherwise without the prior permission of the publisher.

*First published 2017*

*This revised edition 2018*

Islamic Book Trust  
607 Mutiara Majestic  
Jalan Othman  
46000 Petaling Jaya  
Selangor, Malaysia  
www.ibtbooks.com

Islamic Book Trust is affiliated with The Other Press Sdn Bhd.

Perpustakaan Negara Malaysia      Cataloguing-in-Publication Data

Saim Kayadibi

Principles of Islamic Law : The Methods of Interpretation  
of the Texts (Usul al-Fiqh) / Saim Kayadibi.

Includes index

Bibliography: p. 493

ISBN 978-967-0526-33-1

1. Islamic law--Methodology.
2. Islamic law--Interpretation and construction.

I. Title

340.59

*Printed by*

SS Graphic Printers (M) Sdn Bhd  
Lot 7 & 8, Jalan TIB 3, Taman Industri Bolton,  
68100 Batu Caves, Selangor Darul Ehsan.

ered in a  
electronic,  
mission

*For my beloved Wife*

## Contents

Preface .....	xi
1. Introductory Chapter Parameters of <i>Uṣūl al-Fiqh</i> .....	1
<i>Introduction to Uṣūl al-Fiqh</i> .....	1
<i>Definition of Uṣūl</i> .....	8
<i>Definitions of Fiqh</i> .....	11
<i>Sharī'ah and fiqh</i> .....	13
<i>The Characteristics of the Sharī'ah</i> .....	15
<i>Differences between mujtahid and faqīh</i> .....	20
<i>Differences between ijtihād and taqlīd</i> .....	20
<i>Differences between muqallid and faqīh</i> .....	21
<i>The meaning of Shar'iyah</i> .....	26
<i>The meaning of 'Amaliyyah</i> .....	27
<i>The meaning of Muktasabah</i> .....	27
<i>The meaning of Adillah</i> .....	27
<i>Definition of Uṣūl al-fiqh</i> .....	30
<i>Qawā'id al-Fiqhiyyah and Uṣūl al-Fiqh</i> .....	31
<i>Notes</i> .....	35
2. The Sources of Islamic Law .....	42
<i>Introduction</i> .....	42
<i>The Qur'ān</i> .....	45
<i>Aḥkām (ordinances) of the Qur'ān</i> .....	47
<i>The Sunnah</i> .....	48

<i>Ijmā'</i> (consensus) .....	61
<i>Qiyās</i> (analogical deduction) .....	65
<i>Istiḥsān</i> (juristic preference).....	73
<i>Istiḥāb</i> (presumption of continuity).....	82
<i>Maṣlahah Mursalah</i> (public interest) or <i>al-istiṣlāh</i> .....	85
' <i>Urf</i> (customary law) .....	90
<i>Sadd al-Dharā'i'</i> (blocking the means).....	92
<i>Qawl al-Ṣaḥābī</i> (Saying of the Companion of the Prophet (ṣ)) .....	94
<i>Shar' man qablanā</i> (revealed laws preceding to the <i>sharī'ah</i> ).....	95
<i>Istiqrā'</i> (Induction).....	97
Conclusion.....	98
Notes.....	98
3. The <i>Ḥukm Shar'ī</i> ( <i>Aḥkām</i> ) .....	110
<i>The Ḥākim</i> (Lawgiver).....	114
<i>The Maḥkūm 'Alayh</i> (the subject).....	119
<i>The Maḥkūm Fih</i> (the act).....	127
<i>The Ḥukm</i> (ruling).....	139
Notes.....	168
4. Methods of Deducing the Rules from the Sources.....	177
Introduction .....	177
<i>The formation of words (alfāz)</i> ( <i>bi-i'tibāri isti'māl al-lafz fil-ma'nā</i> ).....	180
<i>The General</i> ( <i>al-'āmm</i> ).....	183
<i>The Specific</i> ( <i>al-khāṣṣ</i> ).....	196
<i>The Homonym</i> ( <i>mushtarak</i> ).....	241
<i>The Allegorical Interpretation</i> ( <i>al-ta'wīl</i> ) .....	244
<i>Based on the usage of the words</i> ( <i>bi-i'tibāri isti'māl al-lafz fil-</i> <i>ma'nā</i> ) .....	251
<i>Interpretation of the text based on the degree of clarity and</i> <i>ambiguity of indication of words</i> ( <i>bi-i'tibāri dalālat al-lafz 'alāl-</i> <i>ma'nā wāḍiḥan aw ghayri wāḍiḥan</i> ).....	258
<i>Ḥanafī and Shāfi'ī Approaches to Clear (wāḍiḥ) Words</i> .....	259
<i>The Explicit</i> ( <i>al-naṣṣ</i> ).....	262

61	<i>The unequivocal, explained (al-mufassar)</i> .....	267
65	<i>The perspicuous/firm (al-muḥkam)</i> .....	270
73	<i>Conflict (ta'arud) within the Clarity of Indication</i> .....	276
82	<i>Ḥanafī and Shāfi'ī Approach to the Unclear Words</i> .....	281
85	<i>The obscure (al-khafī)</i> .....	282
90	<i>The difficult (al-mushkil)</i> .....	286
92	<i>The ambivalent (al-mujmal)</i> .....	289
94	<i>The Intricate (al-mutashābih)</i> .....	294
95	<i>Rules of Interpretation based on the Textual Implication (Dalālāt)</i>	
97	<i>(bi-i'tibāri kayfiyyat dalālat al-lafz 'alāl-ma'nā)</i> .....	298
98	<i>The Explicit Meaning ('ibārah al-naṣṣ)</i> .....	302
98	<i>The Alluded Meaning (ishārah al-naṣṣ)</i> .....	305
110	<i>The inferred meaning (mafhūm al-muwāfaqah/dalālah al-naṣṣ)</i>	309
114	<i>The Required Meaning (iqtidā' al-naṣṣ)</i> .....	316
119	<i>The Divergent Meaning (mafhūm al-mukhālafah)</i> .....	319
127	<i>Conclusion</i> .....	328
139	<i>Notes</i> .....	330
168	<b>5. Concept of Ijtihād</b> .....	357
177	<i>Introduction</i> .....	357
177	<i>Concept of Taqlīd</i> .....	390
180	<i>Concept of Talfīq</i> .....	395
183	<i>Concept of Legal Loopholes (ḥilāl shar'iyyah)</i> .....	399
186	<i>The Maqāṣid al-Sharī'ah (the Higher Objectives of Islamic law)</i> ..	402
241	<i>Notes</i> .....	423
244	<b>6. The Abrogation</b> .....	439
251	<i>Introduction</i> .....	439
258	<i>Ta'arud al-Adillah (Conflict of Evidences)</i> .....	453
259	<i>Notes</i> .....	463
262	<i>Glossary</i> .....	468
	<i>Bibliography</i> .....	493
	<i>Index</i> .....	515



In the past couple of decades, interest in Islamic Law has increased in the Muslim world as well as in the non-Muslim world. The popularity of Islamic Banking and Finance has especially triggered scholarly studies in this field since *uṣūl al-fiqh* is the essence of comprehending the law revealed by the Lawgiver. Despite the number of studies on Islamic Law, works dealing with *uṣūl al-fiqh*, which specifically focuses on the interpretations of the texts and the methods used by the jurists, are limited especially in the English language.

This book, *Principles of Islamic Law – The Methods of Interpretation of the Texts (Uṣūl al-Fiqh)* is aimed at helping the students, lawyers and other interested people to understand the subject more comprehensively.

**Dr. Saim Kayadibi** is Associate Professor in the Department of Economics, Kulliyah of Economics and Management Science in the International Islamic University Malaysia (IIUM). Born in Turkey, he studied at Al-Azhar University, Cairo, and University of Jordan. He obtained his Ph.D from Durham University, UK. He has been the Chairman of European Union Halal Standards Committee CEN/TC since 2013. His other areas of interest include Islamic Legal Theory and Jurisprudence, Muslim International Law, Human Rights and Democracy, Sufism, and Philosophy of Rumi. He is the author of *Istihsan: The Doctrine of Juristic Preference in Islamic Law* and *Ottoman Connections to the Malay World*.

ISBN 978-967-0526-33-1



ISLAMIC BOOK TRUST, KUALA LUMPUR  
[www.ibtbooks.com](http://www.ibtbooks.com)