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LAW AND VISION: A READING OF ISLAMIC CULTURE AND THE SOCIO-SPATIAL STRUCTURE OF TRADITIONAL SETTLEMENTS

Majdi Faleh*

Abstract: During the 13th and 14th centuries, much was written on *aḥkām an-naẓar* (the rules of viewing in Islam) and *aḥkām al-bunyān* (the rules of building in Islamic cities). Both legal texts derived their rules from the Sharia and more specifically, its primary sources, the Qur’ān and *ḥadīth*. The implications of these legal texts can be noticed in some aspects of Islamic culture and behaviour as well as in the streets and organic structure of traditional Arab-Islamic cities. This research argues the rules of vision (*naẓar*) and building (*bunyān*) in both manuscripts base their theories on the Qur’ān and *ḥadīth*. Both legal texts also influenced people and the socio-spatial organisation of domestic architecture and the city in medieval Islam. A correlation, which exists between *aḥkām an-naẓar* and *aḥkām al-bunyān*, managed visual contacts and shaped socio-spatial arrangements in the urban design of North African Islamic cities. This research relies on analysing two medieval Islamic manuscripts: Ibn al-Qaṭṭān al-Fāsī’s book *Iḥkām an-naẓar fī aḥkām an-naẓar bi-hāssat al-baṣar* (Scrutinising the Rulings Concerning Seeing with the Sense of Vision) and Ibn al-Rāmi’s *Kitāb al-I’lan Bi-Aḥkām al-Bunyān* (The Book of Pronouncing Judgments in [Matters of] Building). This research first sets the historical context in which these texts were written and discusses their influences on vision, being an inherent concept in Islam, and building, as the physical context around which life takes place. Additionally, it examines the connections between both legal texts to determine how the Qur’ān and *ḥadīth* shaped visual contacts in Muslim societies as well as socio-spatial structures in Islamic cities. Lastly, this research evaluates the findings based on the implications of both legal texts on the socio-spatial organisation of a specific settlement: Medina of Tunis.

Keywords: *aḥkām an-naẓar*, *aḥkām al-bunyān*, Islamic law, vision, planning, Medina of Tunis

INTRODUCTION

In media and political debates, heated arguments about the meaning and implications of Sharia law continue today. This controversial topic is increasingly present in major political,

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social and economic debates not only in the Islamic world but also in the West.¹ Sharia law, deriving its rules principally from the Qur'ān and *ḥadīth* (based on the *sunna* or tradition), governs the behaviours and lives of Muslims. These sets of laws continue to influence the daily lives of Muslims and family-related matters and, in the past, influenced urban design in Muslim majority countries. Some of these traditions are even expanding to the West,² where observant Muslims follow some of these codes in their daily activities.

Beyond codes of conduct, religious law (Sharia) and related rulings (*aḥkām*) not only shape Muslim social life, but also influence the built environments where Muslims live and interact. Even if the Qur'ān does not include legal prescriptions, it is concerned with ethical principles rather than stringent commands.³ Sharia, meaning 'path' in Arabic, has set the rules for Muslims to conduct their lives, maintain their religious obligations and interact with people in public spaces. In their daily routine, Muslims must maintain specific protocols that abide by the rules and teachings of Islam, including the way people address and look at each other. In fact, "the mandate to establish law and standards of conduct on the basis of the Prophet's behaviour flows directly from the language of the Qur'ān."⁴

Religious law (Sharia) and related rulings (*aḥkām*) have also influenced the planning of traditional Islamic cities, their urban fabric, and the accessibility and transition between public and private spaces. Islamic law emphasises the importance of protecting the personal life of dwellers inside their homes. The introvert nature of houses in places like Medina of Tunis reflects the same idea; aspects like the courtyard, setbacks between façades, and the distance between doors and windows on opposite walls reflect the necessity of protecting and hiding the interiors behind a constructed veil. Some researchers even went to the extent of calling Islamic architecture the "architecture of the veil" or "hidden architecture," where there is more emphasis on the building's interior.⁵ The interiors are protected from strangers' eyes, somewhat conveying and confirming a sacred dimension of the socio-cultural life inside the houses. Across centuries, a few researchers and writers have written about these *aḥkām*.

THE HISTORICAL CONTEXT OF WRITING ABOUT AḤKĀM IN THE 13TH AND 14TH CENTURIES

In his famous book *Iḥkām an-naẓar fī aḥkām an-naẓar bi-hāssat al-baṣar* (Scrutinising the Rulings Concerning Seeing with the Sense of Vision), Ibn al-Qaṭṭān al-Fāṣī (d. 1231 CE)

¹ Toni Johnson, Mohammed Aly Sergie, and Lauran Vriens, "Islam: Governing under Sharia," Council on Foreign Relations, <https://www.cfr.org/background/islam-governing-under-sharia>.

² Ibid.

³ Amira Mashhour, "Islamic Law and Gender Equality: Could There Be a Common Ground? A Study of Divorce and Polygamy in Sharia Law and Contemporary Legislation in Tunisia and Egypt," *Human Rights Quarterly* 27, no. 2 (2005): 565.

⁴ Irshad Abdal-Haqq, "Islamic Law-an Overview of Its Origin and Elements," *The Journal of Islamic Law and Culture* 7, no. 1 (2002): 34.

⁵ Ernst J. Grube, "What is Islamic Architecture?" in *Architecture of the Islamic World: Its History and Social Meaning*, ed. George Michell (London, UK: Thames and Hudson, 1978), 11; Zarah Hussain, "Islamic Architecture," BBC, June 9, 2009, <http://www.bbc.co.uk/religion/religions/islam/art/architecture.shtml>.

explained how the vision could strongly affect people's feelings and behaviours. He claimed "the visual faculty is one of the gates to the heart, and the most crowded and frequently travelled path towards him [it] (*a 'mar al-turuq ilayhi*); it is more consistently active than any other organ in the body."⁶

In Islam, the privacy of interior spaces, dwellers and their bodies need to be protected from the gaze of outsiders. Gaze constitutes an extraordinarily active and, at times, dangerous faculty that might invade not only people's hearts but also their privacy. On this topic, Ibn al-Qaṭṭān wrote his book *Iḥkām an-naẓar fī aḥkām an-naẓar bi-hāssat al-baṣar* during his time as a scholar under the Almohad Caliphate (1130–1269 CE). Ibn al-Qaṭṭān was born in Fes and, based on some translations, at the *fajr* of *Eidul-Idḥa* (dawn of the Eid celebration) in 1166 CE. He died in 1230 CE and his grave is near the Great Mosque of Sijilmasa,⁷ a medieval Moroccan city known for its Berber heritage. He was considered the author of the most comprehensive treatise on the body from an Islamic perspective. The topic of what parts of the body could be "shown" or "looked at" was integral to the Almohad ideology, and Ibn al-Qaṭṭān's analysis focused on the concept of *'awra*,⁸ or the intimate parts of the human body. Among the people of *ḥadīth* and *fiqh* (jurisprudence), he was famous thanks to his valuable publications through which he proved he had extensive scientific knowledge. Only a few *Huffadh and Muḥaddithoun* (learners and reciters of *ḥadīth*) gained broad exposure to *ḥadīth*, in narration and expertise, compared to the knowledge of Ibn al-Qaṭṭān.⁹

Ibn al-Qaṭṭān used all Qur'ānic verses related to *an-naẓar* while placing them in the right context. He also reported the explanations of different imams (including the *Sahābas* and ones who followed them). He pointed out the analysis of Arabic language experts and related references, and covered the texts of the *sunna*, including the weak *ḥadīth*, and explained where weaknesses occurred. What is interesting about his work is that he showed the proof, or arguments from the Qur'ān and *ḥadīth*, in each text and explained the possible controversies within this complex debate. The use of 270 *ḥadīth* on *an-naẓar*, his references to *sunna* experts, and his comprehensive explanations and methods can be considered rigorous for their time. Referring to the different schools of thought (*madhāhib*) is another feature that adds credibility and shows why his work needs to be studied and discussed in the 21st century. The precision of Ibn al-Qaṭṭān's work and his thorough understanding of the jurisprudence references (*fiqh*)

⁶ Ibn al-Qaṭṭān al-Fāsī, ed. *Iḥkām Al-Naẓar Fī Aḥkām Al-Naẓar Bi-Hāssat Al-Baṣar* [Scrutinizing the Rulings Concerning Seeing with the Sense of Vision], ed. Farooz Hamada and Idriss Samadi (Damascus: Dar al-Qalam, 2012).

⁷ Ibn Abd Al-Malik, *Al-Dhayl Wa Attakmila* [The Tail and the Completion] (Rabat: Al-khizanah al 'Amma (National Archives), n.d.).

⁸ Éric Chaumont, "La Notion De 'Awra Selon Abū L-Ḥasan 'Alī B. Muḥammad B. Al-Qaṭṭān Al-Fāsī (M. 628/1231)" [The Notion of 'Awra According to Abū L-Ḥasan 'Alī B. Muḥammad B. Al-Qaṭṭān Al-Fāsī (M. 628/1231)], *Revue des Mondes Musulmans et de la Méditerranée* 113-114 (2006): 109.

⁹ Faruq Hamada, "Taḥdim" [Introduction], in *Iḥkām an-Naẓar Fī Aḥkām an-Naẓar Bi-Hāssat Al-Baṣar* [Scrutinizing the Rulings Concerning Seeing with the Sense of Vision], ed. Idriss Samadi (Damascus: Dar al-Qalam, 2012).

of *ahkām an-naẓar* (rulings on viewing others) also explain why it is essential to study his views.¹⁰

Islam repeatedly emphasises the necessity of covering the ‘*awra*, being nakedness or parts of the body that must be covered for males and females. According to Chaumont, this same topic is one of the favourite themes of the Almohad’s religious propaganda, and more precisely the legal and ethical rules behind the Islamic dress code.¹¹ The privacy of Muslims, their bodies and their homes are equally important, a strong point of correlation in this research.

A century later, another scholar from Ifriqiyah (now including Tunisia, Western Libya and Eastern Algeria), known as Ibn al-Rāmi al-Banna (the builder) (d. 1334 CE), wrote a treatise on the legal and ethical rules of building inspired from the Qur’ān and *ḥadīth*. Ibn al-Rāmi’s *Kitab al-I’lan Bi-Aḥkām al-Bunyān* (The Book of Pronouncing Judgments in Matters of Building) addresses different legal cases and conflicts that occur between neighbours and inhabitants. In his manuscript, he suggests solutions to solve these legal matters based on Sharia, ‘*urf* (customs), ‘*ada* (habit) or a *fatwa* by a judge who relies on the technical view of the expert.¹² His work was one of the main sources for the studies of French Orientalist Robert Brunschvig (1901-1990) and French professor of Islamic archaeology Jean-Pierre van Staevel, as it “sheds light on some aspects of the practice of expert testimony in the author’s time and place.”¹³ Ibn al-Rāmi wrote his treatise during the second part of the Ḥafṣid Dynasty (1277–1370 CE). This period was an unstable era for the Ḥafṣids; it was also a period when Ibn al-Rāmi reached intellectual maturity and expertise, and judges consulted him given his broad knowledge of construction and *fiqh* rules and customs.¹⁴

The Ḥafṣid Dynasty and Almohad Caliphate were politically unstable during the times of these two scholars. The Almohads prospered based on the wealth of previous dynasties and the dynasty fell quickly after the defeat of 1212 CE during the Las Navas de Tolosa against the Christians.¹⁵ In Ifriqiyah, as a youth, adult and aged man, Ibn al-Rāmi lived through a difficult period of instability and political changes. However, relative peace during this period had some positive effects on the development of urban planning in Ifriqiyah and Tunisia, in particular.¹⁶ Such political events did not prevent scholars from playing a crucial role in producing legal and ethical manuscripts based on jurisprudence and the texts of the Qur’ān and *ḥadīth*. They published two valuable treatises, containing medieval legal cases, that discussed social and cultural interactions and the implications of urban design on traditional settlements. The latter offered a specific reading of traditional settlements, the interaction within private and public

¹⁰ Ibid., 11.

¹¹ Chaumont, “La Notion De ‘Awra,” 110.

¹² Muhammad Ibn Ibrahim Ibn al-Rami, *Al-I’lan Bi-Ahkām Al-Bunyan* [the Book of Pronouncing Judgments in Matters of Building] (Tunis: Markaz al-Nashr al-Jamī’i (Centre de Publication Universitaire), 1999), 8.

¹³ Ron Shaham, *The Expert Witness in Islamic Courts: Medicine and Crafts in the Service of Law* (Chicago, IL: University of Chicago Press, 2010), 75.

¹⁴ Ibn al-Rami, *Al-I’lan Bi-Ahkām Al-Bunyan*, 11.

¹⁵ Abdallah Laroui, *The History of the Maghrib: An Interpretive Essay* (Princeton, N.J: Princeton University Press, 2015), 192-93.

¹⁶ Ibn al-Rami, *Al-I’lan Bi-Ahkām Al-Bunyan*, 12.

domains, and the impact of such laws on planning their urban spaces in the Western part of the Islamic world, the Maghrib, between the 13th and 14th centuries.

AḤKĀM AN-NAẒAR, AḤKĀM AL-BUNYĀN AND THE NOTION OF PRIVACY IN THE QUR'ĀN AND SUNNA

Privacy is a necessary code in the lives and spaces of Muslims. Principles deriving from Sharia law, the Qur'ān and *ḥadīth* explain this core Islamic value¹⁷ that predominantly affects lives and spaces of encounter. Given its critical application in the practice of Islam, privacy is a term coined to represent one of the ethical values for scholars and the community at large. Alshech explains that Muslim societies view privacy as an essential principle distinguishing the private sphere from the public sphere. He adds that Islamic legal texts and Qur'ānic texts contribute to the elaboration of this concept.¹⁸

Islamic teachings and traditions, through the teachings of the Qur'ān and *ḥadīth*, emphasise the need for women and men to abide by a code of conduct that protects the society from *fitnah* (temptation). Gazing at people and invading one's privacy and home through looking has been considered a potential source of *fitnah* and a dangerous faculty. Several medieval and contemporary scholars examined the concept of *an-naẓar* from a religious and legal perspective, and Ibn al-Qaṭṭān analysed many of the discussions in his well-known manuscript.

Ibn al-Qaṭṭān's Aḥkām an-Naẓar

Figure 1: Ghadd al-Baṣar (lowering the gaze) – 2014 – credits: <https://assabeel.net/>



Iḥkām an-naẓar fī aḥkām an-naẓar bi-hāssat al-baṣar is one of the first books written about the topic of vision in Islam. This book is a reference in the field of history and it precisely discusses the permissibility of looking. As explained by Hamada, this book has a clear

¹⁷ Zulkeplee Othman, Rosemary Aird and Laurie Buys, "Privacy, Modesty, Hospitality, and the Design of Muslim Homes: A Literature Review," *Frontiers of Architectural Research* 4, no. 1 (2015): 13.

¹⁸ Eli Alshech, "Do Not Enter Houses Other Than Your Own: The Evolution of the Notion of a Private Domestic Sphere in Early Sunni Islamic Thought," *Islamic Law and Society* 11 (2004): 293.

objective to answer urgent questions regarding the rulings on vision.¹⁹ The broad spectrum of the author's analysis supports his arguments and offers responses to people who attempt to know more about what the codes of societies allow and forbid. The book's eight chapters are:

1. The legality of lowering the gaze.
2. Body parts that can be shown and others that should be hidden (not permissible or hated showing them).
3. Regarding men looking at men.
4. Regarding women looking at women.
5. Regarding men looking at women.
6. Regarding women looking at men.
7. What is permissible to look at, even though forbidden, for a necessity or need.
8. In a statement of the legality of words or actions when seeing some visuals (things).

Ibn al-Qaṭṭān explains that men looking at men is permissible as long as they are not looking at their intimate parts or *'awra*.²⁰ In Islam, and precisely in Sunni *fiqh*, a man's *'awra* is from the navel to the knees. For a 'free' woman, her full body is *'awra*,²¹ thus it should be protected based on Islamic teachings. Ibn al-Qaṭṭān relies on *ḥadīth* to explain how *'awra* should be protected and private parts concealed, based on the Sunan of Abi Dawud in the chapter regarding nudity. Al Albāni said his father told on the authority of his grandfather:

I said: Messenger of Allah, from whom should we conceal our private parts and to whom can we show? He replied: conceal your private parts except from your wife and from whom your right hands possess (slave-girls). I then asked: Messenger of Allah, (what should we do), if the people are assembled together? He replied: If it is within your power that no one looks at it, then no one should look at it. I then asked: Messenger of Allah if one of us is alone, (what should he do)? He replied: Allah is more entitled than people that bashfulness should be shown to him.²²

In *ḥadīth*, any action that leads to the description of a woman is not permissible as it can lead to the temptation of men. Prophet Muhammad (pbuh) emphasises that "the woman must not see a woman [her *'Awra*] then describe her to her husband as if he is looking at her."²³ There is a strong emphasis on the protection of people's privacy and the privacy of their body parts, even from a 'simple' description of how they are. This concept might sound strange to some communities but not for observant Muslims of the 21st century. A famous *ayat* mentions the idea of protecting the *'awra* and defines the limits of what people can show and what should be protected from people's gaze:

And tell the believing women to reduce [some] of their vision and guard their private parts and not expose their adornment except that which [necessarily] appears thereof and to wrap [a portion of] their headcovers over their chests and not expose their adornment except to

¹⁹ Hamada, "Taqdim," 51-52.

²⁰ Ibn al-Qaṭṭān al-Fāsī, *Iḥkām Al-Nazar Fī Ahkām Al-Nazar Bi-Hāssat Al-Baṣar*, 309.

²¹ Abdullah Attariki, *Al-Nazar Wa Ahkāmuhu Fil Fiqh Al-Islami* [Vision and its Rulings in Islamic Jurisprudence] (Riyadh: King Fahad National Library, 2000), 27.

²² Hasan al-Albāni, *Sunan abi Dawud*, 4017. Book 33, Hadith 9.

²³ Reported by Al-Bukhārī (5240) on the authority of 'Abd Allāh Ibn Mas'ūd.

their husbands, their fathers, their husbands' fathers, their sons, their husbands' sons, their brothers, their brothers' sons, their sisters' sons, their women, that which their right hands possess, or those male attendants having no physical desire, or children who are not yet aware of the private aspects of women. And let them not stamp their feet to make known what they conceal of their adornment. And turn to Allah in repentance, all of you, O believers, that you might succeed.²⁴

A second legal case includes looking at the *amrad* or a beardless person.²⁵ Here, Ibn al-Qaṭṭān defines *amrad* as a person who has no beard or a pre-pubescent boy. The latter has the potential to attract looks and move the desires of others when looking at him. Ibn al-Qaṭṭān explains there is some doubt in the previous case scenario of the *amrad*.²⁶ A sudden look is not haram (not forbidden by Islamic law); however, if there is a risk of attraction, then looking is prohibited. These cases are very detailed and contain several subcases based on gender and sex.

Additionally, Ibn al-Qaṭṭān explains there is agreement that females should not look at other females if there is a risk of *fitnah*. It is permissible for a female to look at a female if there is no intention of enjoyment, and in this case, she can look at the face, palms, feet, hair and neck. He even describes this look as similar to someone's look at a sheep, cow or nice doe,²⁷ but the author does not intend to degrade the image of women in any way by using such examples. His allegory emphasises the necessity of keeping the look neutral. The look given to animals should not come with desires and looking at women, based on these medieval texts, should not either. There is a continuous reminder for Muslims, through the words of Ibn al-Qaṭṭān, that chastity starts with protecting one's look from transgressing. This idea follows the principles of the Qur'ān that has long stressed "say to the believing men that they cast down their looks and guard their private parts; that is purer for them; surely Allah is Aware of what they do."²⁸

Aḥkām an-naẓar emphasises the idea of purity and avoidance of looking if the latter would lead a person to temptation. Temptation and desires are natural feelings that may transform humans' behaviours and attitudes. They might even lead to frustration and loss of reason, in some regards, to avoid using the different sense in the wrong way. For instance, one can cite the interaction between males and females as an example that has been long addressed by Muslim scholars, as mentioned in the Qur'ān "and do not pursue that of which you have no knowledge. Indeed, the hearing, the sight and the heart - about all those [one] will be questioned."²⁹

In Ibn al-Qaṭṭān's *Iḥkām an-naẓar fī aḥkām an-naẓar bi-hāssat al-baṣar*, the imam and scholar relied on *ḥadīth* to explain that men who lower their gaze and avoid visual contact will be highly rewarded in the hereafter. As an example of a reward, their eyes will not see hellfire.³⁰

²⁴ Qur'ān 24:31.

²⁵ Ibn al-Qaṭṭān al-Fāsī, *Iḥkām Al-Naẓar Fī Aḥkām Al-Naẓar Bi-Hāssat Al-Baṣar*, 309.

²⁶ Ibid.

²⁷ Ibid., 348.

²⁸ Qur'ān 24:30.

²⁹ Qur'ān 17:36.

³⁰ Ibn al-Qaṭṭān al-Fāsī, *Iḥkām Al-Naẓar Fī Aḥkām Al-Naẓar Bi-Hāssat Al-Baṣar*, 374.

The same rule applies to women, who are prohibited from looking at men if desire develops after that look.³¹ The Qur'ān (24:30) also emphasises the idea through an *ayat* “*Qul lil mu'minina yaghuddu min absārihim*,” asking Muslim believers to lower their gaze. Religious law and the related rulings of social interaction impact not only Muslims' lifestyle but also the planning of their traditional settlements, which is a concept worth studying.

Ibn al Rāmi's Ahkām al-Bunyān

In Qur'ānic scripts, the notion of domestic privacy is highly relevant. For instance, people should not enter a house until receipt of the owners' permission. The Qur'ān states “O you who have believed, do not enter houses other than your own houses until you ascertain welcome and greet their inhabitants. That is best for you; perhaps you will be reminded.”³² Across cultures, including Islamic culture, it is important to respect and preserve people's private spaces. The central idea seen here is about protecting the interior spaces from the gaze of outsiders and building on what Ibn al-Qaṭṭān considers crucial in Islamic culture.

Different levels of privacy involve neighbours, male and female, family members and individuals.³³ For example, across the Middle East, Muslim jurists established laws that “prevented the general public and the authorities from intruding people's homes, bodies, private information, private affairs, and peace of mind.”³⁴ Dwellers establish visually insulated regions to protect visual privacy, line-of-sight distance, placement of windows and heights of adjacent buildings, confirming the principles of visual segregation between public and private domains.³⁵ In the Qur'ān and following Sharia principles, Islam continuously warns against the intrusion of private spaces, considering it an unlawful act. The intrusion of people's personal spaces can lead to unwanted thoughts, temptations and harm.³⁶ Based on classical exegetes, privacy receives a highly significant rank in the legal texts of Islam and property rights. Islamic law also insists on the removal of harm; thus “the concern for privacy was reflected in the physical form of the city in several ways.”³⁷

This rich medieval manuscript, written in the first half of the 14th century, focuses on several diverse legal cases (*ahkām*) that stem from conflicts or matters reported by judges as well as fatwas that occurred in Tunis at that time. Ibn al-Rāmi primarily focuses on legal matters

³¹ Ibid., 433.

³² Qur'ān 24:27. There are different translations of the Qur'ān and here I chose the Sahih International one because it satisfies the intended meaning: <http://legacy.quran.com/24/27>.

³³ Rana Sobh and Russell Belk, “Domains of Privacy and Hospitality in Arab Gulf Homes,” *Journal of Islamic Marketing* 2 (2011).

³⁴ Eli Alshech, “Out of Sight and Therefore out of Mind: Early Sunni Islamic Modesty Regulations and the Creation of Spheres of Privacy,” *Journal of Near Eastern Studies* 66, no. 4 (2007): 268.

³⁵ Janet L. Abu-Lughod, “The Islamic City—Historic Myth, Islamic Essence, and Contemporary Relevance,” *International Journal of Middle East Studies* 19, no. 2 (1987): 167.

³⁶ Majdi Faleh, “A Holistic Ethical System of Architecture in the Time of Globalization: Between Dubai and the Medina of Tunis” (doctoral diss., The University of Western Australia, 2018).

³⁷ Saleh Ali Al-Hathloul, “Tradition, Continuity and Change in the Physical Environment: The Arab-Muslim City” (PhD diss., Massachusetts Institute of Technology, 1981), 105.

between neighbours, when it comes to construction and space, and his manuscripts contained five books, each discussing one legal case:

1. Book on the buildings and walls, the closest to the author's expertise.
2. Book on avoiding harm, which is a central theme in *fiqh* matters.
3. Book on the flaws in building, of cases he supervised and analysed in person.
4. Book on plantations and the conflicts between farmers who build towers.
5. Book on grindstones, which require building a house and water dam.

In this analysis, the focus is primarily on the principles of avoiding harm as a result of visual intrusion between neighbours (*kitāb nafy dharar*), which is the focus of this research. The need for preserving the interiors of houses from strangers' looks exist in Ibn al-Rāmi's legal treatise. In the 14th century, a century after Ibn al-Qaṭṭān wrote his treatise, Ibn al-Rāmi wrote *Kitāb al-I'lan Bi-Aḥkām al-Bunyān*, referring to several legal cases pointing out the importance of preserving the *ḥormat* (privacy) of the home and its interior. Ibn al-Rāmi also insists in his book that looking inside others' property is an unacceptable act in Islam. Ibn al-Rāmi relies on a *ḥadīth* written in *al-Muwatta* by Mālik ibn Anas (711–795 CE) in the 8th century, stating “*la Darar wa la Dirār*” – translated as there should be neither harming (*darar*) nor reciprocating harm (*dirār*). This specific text is *ṣaḥīḥ* (authentic) reported and confirmed by Prophet Muhammad (pbuh).³⁸ While some interpretations focus on the order of harm and inflicting harm on others, Ibn al-Rāmi examines the different perceptions of harm and explains why it should be avoided to protect people.

While Ibn al-Qaṭṭān continuously relies across his analysis on the Qur'ān and *ḥadīth*, as primary sources, Ibn al-Rāmi focuses on analysing matters of visual intrusion or potential intrusion based on legal cases reported through judges and his observations in Tunis over the years. For instance, under section [Case 97] related to windows and doors that lead to visual intrusion, he refers to different *aqwāl* (sayings) by judges (in this case Imām Suḥnūn), who refer to the *ḥadīth* narrated by Imām Mālik. Suḥnūn said: “I said to Ibn al-Qāsim: what would happen when a man builds palaces next to my house, opens doors and windows towards my property, can I prevent him from doing so based on Imam Mālik's recommendation?”³⁹ Ibn al-Rāmi's analysis used the *ḥadīth* narrated through Imām Mālik, in which he stipulates:

reported on Mālik, reported on Omar ibn al-Khattāb (peace and blessings be upon him) that a man added a window in a room facing his neighbour's property; Omar replied that a bed, on which this owner would stand, should be put at the level of the window, and if he can see what happens in his neighbour's house, then he would be banned from opening it.⁴⁰

Such case scenarios, and many others, show the importance of preventing visual intrusions inside a private domain and the continued reliance on the essence of Islamic texts to support such views.

³⁸ Ibn al-Rami, *Al-I'lan Bi-Ahkām Al-Bunyan*, 57-58.

³⁹ *Ibid.*, 66.

⁴⁰ *Ibid.*, 67.

In another legal matter, Ibn al-Rāmi discusses more specific cases of visual intrusion towards people through *sharjab* (known as *mashrabiyya* or bow/bay windows). In this section (Case 103), he explains it was reported by Judge Abu Abdallah that, if this type of window allowed the neighbour to see through as if this visual barrier did not exist, then it is more harmful. The reasoning behind this case is related to the fact the person would not be alert if their neighbour can see out without being seen, which inflicts the harm and moral damage the *ḥadīth* mentions. Again, the focus of the analysis is on legal cases reported by judges and applying the principle of ‘no harm and no infliction of harm on others.’

Concerning vision and privacy, he relies on the *ḥadīth* reported by Ahmad and Al-Nisai via Abu Hurairah that stipulates “he who looks into a house without the occupants’ permission, and they puncture his eye, will have no right to demand a fine or ask for punishment.”⁴¹ The Qur’ān also mentions the importance of protecting the privacy of the home, where Allah said: “O ye who believe, enter not houses other than your own until ye have asked permission and saluted those in them: that is best for you, in order that [so that] ye may heed...”⁴² The idea of protecting the privacy of the house builds on the principle of ‘harm removal,’ discussed earlier, given that the sight (vision) and brain might engage in unwanted thoughts and desires if transgressing this private domain.

Further cases of visual intrusion through windows built in new rooms and opening towards a neighbour’s courtyard (Case 104) are highlighted by Ibn al-Rāmi. He gradually relies on the arguments of several judges and scholars, through questions asked, to come to a conclusion or synthesis that windows, unlike doors, should be avoided if they allow a homeowner to stare at their neighbour’s courtyard and private domain.⁴³ In particular, this case shows how he addresses the matter by asking all scholars in his country (*u’lama biladina kullouhom*), which might be an exaggeration. He might have referred to experts in this area and the ‘people of fatwa;’ in other words, those who are knowledgeable about Islamic fatwa. To a certain extent, Ibn al-Rāmi’s approach shows a broader spectrum of analysis supported by practical knowledge considering different views, which are, in essence, supported by *ḥadīth*. Such a holistic approach comes at a particular time, the Ḥafṣid Dynasty (*Dawla*) (1229–1534 CE), which thrived during its Golden era between the 13th and 16th centuries. Medina of Tunis progressed and became an economic, intellectual and religious centre.⁴⁴ There was continuous interest in the principles of *fiqh* as well as the care given to modesty and privacy. In fact, “Muslims applied the same principle to their architecture, and they built settlements where one is protected from strangers’ views.”⁴⁵

⁴¹ Hadīth, ref. 3, vol. II, 576.

⁴² Qur’ān 24:27.

⁴³ Ibn al-Rami, *Al-ʿLan Bi-Ahkam Al-Bunyan*, 70.

⁴⁴ Josef W. Meri and Jere L. Bacharach, ed., *Medieval Islamic Civilization: An Encyclopaedia* (New York, NY: Routledge, 2006), 309.

⁴⁵ Majdi Faleh, “The Sustainable Well-Being in the Medina of Tunis and its Environmental Values,” *Advanced Science Letters* 23, no. 7 (2017): 6314.

THE INFLUENCE OF *AḤKĀM AN-NAẒAR* AND *AḤKĀM AL-BUNYĀN* ON THE SOCIO-SPATIAL STRUCTURE OF ISLAMIC CITIES

Aḥkām an-naẓar and *aḥkām al-bunyān* are two genres of medieval legal writings that had impacted social life and spatial organisation in the traditional Islamic city, especially in the Western part of the Islamic world. Both authors, Ibn al-Qaṭṭān and Ibn al-Rāmi, were born and raised in the Western part of the Islamic world, Cordoba in al-Andalus (Southern Spain), Fes (Morocco) and Tunis (Ifriqiyah). Six to seven centuries after the rise of Islam, jurisprudence (*fiqh*) stemming from this religion, in particular, the Mālikī *fiqh*, had spread from Arabia to North Africa. This school of thought, which was founded by Imām Mālik ibn Anas in the 8th century, focuses on the Qur’ān and *ḥadīth* as its primary sources. The Qur’ān and *ḥadīth* are the sources that guide the science of religious law in Islam or *fiqh*. The latter also focuses on several private and public aspects of daily life.⁴⁶ One such aspect is looking at others and interacting with other members of society, by reference to the rules of seeing or *aḥkām an-naẓar*. All these legal codes had direct implications on the planning and architecture of traditional settlements, including the Medinas of North Africa.

Orientalist scholars, including K. A. C. Creswell (1879–1974), Gustave E. von Grunebaum (1909–1972) and Jacob Lassner (1935–), misconstrue traditional Islamic cities due to their preconceptions. Lassner considers the early pattern of growth in al-Basrah and al-Kufah, military colonies, as fast and lacking awareness of formal city planning.⁴⁷ When discussing medieval Islam, von Grunebaum seems biased towards women’s place in society. He notes the city enforced the veil and secluded Muslim women. Von Grunebaum, given his inadequate interpretation of Qur’ānic verses and limited knowledge of the Arabic language, focuses superficially on the superiority of men, the elimination of women from the public sphere and their marginalisation in society. Like many of his fellow Orientalists, his attitude denigrates the noble position of women in Islamic cities and communities. It reflects an Orientalist racial and religious prejudice.⁴⁸ Creswell also had limited knowledge of Arabic and considers that Basra, Kufah and al-Fustat were chaotic cities, with blind alleys, waste, and tents and huts around them.⁴⁹

In their views, traditional Islamic settlements were chaotic and lacked formal elements of planning.⁵⁰ Their distorted views overshadow the reality of organic and traditional Islamic cities, which long relied on Islamic values and customs to account for their urban morphology.

⁴⁶ Besim Hakim and Peter Rowe, “The Representation of Values in Traditional and Contemporary Islamic Cities,” *Journal of Architectural Education* 36, no. 4 (1983): 22.

⁴⁷ Jacob C Lassner, “The Caliph’s Personal Domain: The City Plan of Baghdad Reexamined,” *Kunst des Orients* 5, no. 1 (1968): 24.

⁴⁸ Gustave E. von Grunebaum, *Medieval Islam: A Study in Cultural Orientation* (Chicago & London: The Chicago University Press, 1946), 174-75.

⁴⁹ K. A. C. Creswell, *Early Muslim Architecture: Umayyads A.D. 622-750*, 2nd ed., vol. 1 (Oxford: Clarendon Press, 1979), 22.

⁵⁰ Jamel Akbar, “Khaṭṭa and the Territorial Structure of Early Muslim Towns,” *Muqarnas* 6 (1989): 22; Jamel Akbar, “Responsibility and the Traditional Muslim Built Environment” (PhD diss., Massachusetts Institute of Technology, 1984), 155.

Akbar explains that families and tribes controlled the planning of traditional Islamic cities.⁵¹ In the 14th century, scholars combined the *aḥkām* and applied them to the urban structure of Medina of Tunis. The applications of these legal codes enhanced Islamic socio-cultural values of privacy and protected the interiors of homes and courtyards inside interior spaces. One such example that combines both laws is the case of the *Muezzin*, the person who traditionally calls for prayers from inside the mosque. Medina of Tunis, through its structure and values emanating from it, promotes privacy, a core value in Islam, to reduce harm as mentioned by the Māliki *fiqh*. One case study explains this same rule applies to all inhabitants, including the *Muezzin* or *Muedins*:

To begin with, the highest point in the city is the minaret. Although it serves a very basic religious function, this did not exclude it from being looked on as a place from which the Muezzin, who is expected to be a pious man, could look into the surrounding houses.⁵²

Islam promotes the idea that harm, regardless of its nature, should be avoided. Whether it is an imam, *Muedin*, dweller or judge, protecting people from conscious or unconscious intrusion and maintaining visual privacy is a core value of the religion of Islam. As a response to the previous case, a parapet should be built to prevent direct looking, and use of the minaret is allowed when the *Muedin* cannot overlook people's courtyards.⁵³ The *Muedin* is only allowed to access the minaret if he cannot see people and when the houses are far from the masjid.⁵⁴ This case shows the importance of Islamic law and its application in the architecture of traditional settlements. These legal matters also reflect how architects, builders and judges used the *aḥkām* and gave them considerable attention.

Protecting the privacy of the body as well as that of homes were not only required for the legal reinforcements of Islamic law but also for strengthening the social connections between the dwellers of medieval cities through mutual respect of Islamic values and a consolidated belief system. *Aḥkām an-naẓar* and *aḥkām al-bunyān* are social contracts that regulated the *fiqh* of interaction in these traditional settlements; they also established a code of conduct regulating personal space and legal behaviours. These 13th and 14th century practices supported the principle of the well-known legal maxim *la darar wa la dirar*,⁵⁵ which is an authentic *ḥadīth* and *fiqh* rule in Islam advising people not to harm others and others should equally not harm anyone. Besim Hakim also relies on this rule when discussing the Islamic traditions of the built environment; it is one of the most essential and fundamental principles applied to issues affecting the built environment.⁵⁶ Such core rules (*qa'ida fiqhiyya*) aim to be established in a

⁵¹ Akbar, "Khaṭṭa and the Territorial Structure of Early Muslim Towns," 30.

⁵² Al-Hathloul, "The Arab-Muslim City," 106.

⁵³ Besim S. Hakim, *Arabic-Islamic Cities: Building and Planning Principles* (London: Kegan Paul International, 1986), 37.

⁵⁴ Ibn al-Rami, *Al-ʿLan Bi-Aḥkam Al-Bunyan*, 79.

⁵⁵ Akel Isma'il Kahera, *Reading the Islamic City: Discursive Practices and Legal Judgment* (Lanham, MD: Lexington Books, 2011), 38.

⁵⁶ Besim S. Hakim, "The Generative Nature of Islamic Rules for the Built Environment," *International Journal of Architectural Research* 4, no. 1 (2010): 209.

way that the Muslim community follow them in their social interaction and in shaping the design of their cities and houses.

Neighbours are banned from opening windows towards others' properties if they lead to visual intrusion. Jurists applied this ruling in Medina of Tunis and Ibn al-Rāmi had never seen a judge who decided otherwise. However, and in the same case, the other neighbours were expected to make their building taller to avoid visual intrusion.⁵⁷ Al Hathloul further explains this rule, where he refers to the different types of openings and customary judgments in Tunis:

At a later time, Ibn al-Rāmi, when speaking of doors and windows that looked upon neighbouring houses, introduced two types of openings: new (hadith), which according to general belief (al-mashhur) were to be sealed, and pre-existing ones (qadim), which were left as they were. However, he emphasised the fact that "as it is generally understood, the viewer is to be prevented." This implies that even if the opening was not sealed, one should not be allowed to use it in order to look upon his neighbors. Ibn al-Rāmi also relates that, in Tunis, the customary judgement as well as the actual practice was to prevent intruding and uncovering.⁵⁸

For visual privacy, scholars explain the details and claim that a window should not be low enough to allow a passer-by to look inside the house. The sill should be 175cm (19.8 šibr)⁵⁹ from ground level to be considered adequate, as explained by Ibn al-Rāmi and confirmed by Hakim through observation of the homes of Medina of Tunis. Overall, the general rule is the sightline from an exterior window should be above the head level of a standing person who is inside.⁶⁰ In another case, about existing new windows, Caliph Umar Ibn Al-Khattab explains, when a man builds a room with a new window, the ruling is to place a bed behind that window. The person would then stand on it, and if he was looking at what is inside that house, then he should be banned from opening it. A chair can replace the bed and the general rule is its height should be a maximum of 5 šibr (or span 44.16cm) and a minimum height of 4 šibr (35.32cm). The man standing on the chair should have good eyesight,⁶¹ showing the peculiarity of these matters of vision. Besim Hakim also points out that "the original codes do not specify dimensions but rather intention and performance."⁶² Intentions and performance reflect a continuous will for legal experts in the 14th century settlement to help the inhabitants maintain their social and cultural codes, values and privacy.

The wall, street, cul-de-sac, house and courtyard are urban elements that form the complex fabric of Medinas and Islamic settlements in the 14th century, precisely in the Western part of the Islamic world (North Africa and Southern Spain). Their organic structure allows the gradual transition between urban public, semi-private and private spaces. The complex and organic urban fabric of Medina of Tunis also plays a significant role in creating different levels of

⁵⁷ Ibn al-Rami, *Al-I'lan Bi-Ahkam Al-Bunyan*, 68.

⁵⁸ Al-Hathloul, "The Arab-Muslim City," 109.

⁵⁹ Šibr, šibr or شبر is a measurement unit of about five fingers. It is equal to 11.592cm in the Hanafi *fiqh*, 8.832cm based on the Malikis and 15.456cm by the Hanbali and Shafiee schools of thought.

⁶⁰ Hakim, *Arabic-Islamic Cities*, 36.

⁶¹ Ibn al-Rami, *Al-I'lan Bi-Ahkam Al-Bunyan*, 67.

⁶² Besim S. Hakim, "Mediterranean Urban and Building Codes: Origins, Content, Impact, and Lessons," *Urban Design International* 13, no. 1 (2008): 29.

transition between urban spaces. A visitor or dweller goes through various stages to reach the courtyard of a building or house. Usually, the visitor enters Medina of Tunis through one of its gates (*bāb*) on its fortifications. Then the journey starts through the bazaars (*souq*), public square (*sāḥa*), several streets (*shāra*), until reaching the central unit (*dār*), the main entrance (*sqifa*) and later the courtyard (*s'ḥan eddār*).⁶³ Consequently, the transition between public and private spaces ensures visual protection, reinforcing socio-cultural values, primarily limiting visual contacts.

The rules concerning buildings (*aḥkām al-bunyān*) also considered the visual contact principles established by *aḥkām an-naẓar*. They thus further contributed to shaping the traditional built environment. In Medina of Tunis, visitors should traditionally respect a specific Islamic code of conduct before entering the private domain of the house. Entering through exterior doors and respecting the privacy of inhabitants is another ethical value that derives from the codes of conduct in Islamic societies. They are not supposed to face the door, ultimately when it is open.⁶⁴ As detailed as it might seem, a visitor is supposed to stand by the corner of the door to avoid looking inside the house.⁶⁵ The previous statement is based on the *ḥadīth* where Abdullāh Ibn Busr said, “whenever the Prophet (peace be upon him) knocked on a door, he did not face it. He used to stand at the right or the left side, and if it was permitted, he would enter, and if not, he would return” (Imām Ahmad and Abu Dāwud).⁶⁶ Even the owners should design the front door in a way that it does not give direct access to private spaces.⁶⁷ These rulings and many others show even the social behaviour in the Medina should comply with specific ethics respecting the privacy of interior spaces. Privacy and vision remain strongly related principles that structure the urban design and architecture of traditional Islamic settlements. These legal rules of construction help Muslims to preserve their private domains based on the logic of avoiding harm that might occur due to visual intrusion.

CONCLUSION

This research first set the historical context and introduced two crucial legal treatises and their respective authors. These texts, written between the 12th and 14th centuries, primarily reflected the importance of *fiqh*. It also showed its significant applications in the lives of Muslims and their dwellings during that time.

The rules concerning seeing (*aḥkām an-naẓar*) have had a significant impact on Muslim social life since they defined the legality of visual contacts, gender mixing and socio-visual relations. Ibn al-Qaṭṭān al-Fāsī wrote about the avoidance of gazing and visual contact (*ghadd al-baṣar*) as a fundamental moral reference in Islam. Ibn al-Qaṭṭān also discussed the legal

⁶³ Faleh, “A Holistic Ethical System of Architecture in the Time of Globalization,” 224.

⁶⁴ Spahic Omer, “Towards Understanding Islamic Architecture,” *Islamic Studies* 47, no. 4 (2008): 491.

⁶⁵ Muhammad Nur Suwayd, *Raising Children in Islam - Moral and Social Upbringing* (Cairo: Al Faleh Foundation, 2005), 22.

⁶⁶ Ibid.

⁶⁷ Spahic Omer, “Suggestions for Designing and Building Muslim Houses,” Islamic City, <http://www.islamicity.org/8005/suggestions-for-designing-and-building-muslim-houses/>.

instruments identifying the parts of the body that can be visible and the parts that should be covered based on the Qur'ān and *ḥadīth*. As a general rule, *ghaḍḍ al-baṣar* happens through gazing from the *'awra* and gazing from the spots of temptation, referring to men's and women's embellishments.⁶⁸ Ibn al-Qaṭṭān relied on several *ḥadīth* to support his point and explained the eye could cause distorted behaviour and be the source of reward or misconduct. Protecting and hiding the embellishments or private body parts implied an adaptative socio-spatial structure in traditional Islamic cities consistent with Islamic values.

Gender mixing remains a controversial subject in modern times and diverging opinions exist among scholars of Islamic law. Ibn al-Qaṭṭān touched on the matter through the rules concerning seeing. He explained, for instance, that men should avoid looking at foreign females (*ajnabiyya*). Such emphasis on separating men and women reflects the seriousness of the matter in medieval Islamic law, suggesting a substantial impact on how urban spaces were adapted and shaped to meet such rules. As a result of visual contacts and gender mixing, socio-visual relations became a controversial topic. Ibn al-Qaṭṭān used all Qur'ānic verses related to *an-nazar*. He also reported the explanations of the different imams (including the *Saḥabas* and the ones who followed them). He then pointed out the analysis of Arabic language experts and related references. He later covered the texts of the *sunna*, including the weak *ḥadīth*, and explained where weakness occurs. Ibn al-Qaṭṭān showed the proof (argument) used in each text and explained how the possible controversies come from that text.

Ibn al-Rāmi, in his treatise, focused on legal matters reported by several judges regarding the placement of openings (doors, windows, bow windows). His analysis indirectly stems from *fiqh* principles, finding its basis in primary and secondary sources. The structure of Islamic cities, including Tunis, also reflected the concern of planners at that time to protect visual privacy by designing honeycomb-like structures, where the transition from the public to private domain is unavoidable.

Aḥkām an-nazar had also resulted in specific spatial arrangements at domestic and urban levels. At the urban level, *aḥkām an-nazar* recommended lowering the gaze to avoid looking at people's spots of temptation. By correlation, *aḥkām al-bunyān* also supported this idea and ensured laws of construction that protect the privacy of the interiors, by avoiding doors and windows facing each other and establishing enough setbacks between the façades.

The precision of Ibn al-Qaṭṭān's and Ibn al-Rāmi's writings and their thorough understanding of jurisprudence references (*fiqh*) of *aḥkām* also reflected why it is essential to study their views and draw connections between them. These same questions come to the surface and constitute recurring subjects in primary political, social and media debates of the modern history of the Islamic world. The *aḥkām*, beyond their socio-cultural implications, had legal implications and practical applications on the built environment and communities.

⁶⁸ Attariki, *Al-Nazar Wa Aḥkāmuhu Fil Fiqh Al-Islami*, 29.

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