Almuqadimah of Human and Social Studies Journal, Volume (10) Issue (2),(December- 2025) pp 674-689
ISSN: 2602-5566 EISSN :2716-8999

Modernist Applications of Hermeneutics Principles to the Foundations of Jurisprudence -Mohammed Arkoun as a Case Study-

تطبيقات الحداثيين لمقولات التأويلية على أصول الفقه -محمد أركون أنموذجا-

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Received Date:23/09/2025 Acceptance Date:20/11/2025

Abstract

Many modern researchers have aimed to deconstruct Islamic knowledge by using Western approaches, such as the concepts of hermeneutics and historicism. Thus, they have directed their critical efforts toward the science of Jurisprudence (usul al-fiqh). Among the most eminent researchers who have studied this topic is Muhammad Arkoun, who focused on critiquing the idea of the completeness and eternity of Jurisprudence that ignores the fact that Jurisprudence remains a human, conditional and limited reading tied to historical contexts. From this standpoint, Arkoun called for a review of the assumptions on which Jurisprudence has been built, in order to reveal its concealed historicism. The objective of Arkoun is to restore jurisprudence as a cultural product rather than an unquestionable discourse, viewing this as a fundamental step towards liberating Islamic thought. The article aims to review the critical approaches employed by Arkoun and examine his main findings.

Keywords: Atta'wiliya , jurisprudence, historicism, hermeneutics, episteme.

ملخص:

سعى الكثير من الباحثين الحداثيين إلى مراجعة، وتفكيك بنية المعرفة الإسلامية عبر استثمار أدوات المناهج الغربية الحديثة، مثل الهرمينوطيقا ومفهوم التاريخية. وقد وجّهوا جهودهم النقدية إلى علم أصول الفقه، باعتباره الحقل الذي اضطلع بدور محوري في تأطير الخطاب الديني وضبط آليات إنتاج المعنى داخل المنظومة الإسلامية. ومن أهم الباحثين الذين تناولوا هذا الموضوع بالدراسة والتدقيق نجد محمد أركون الذي ركز-من وجهة نظره- على نقد الرؤية المعرفية التي تفترض كمال أصول الفقه وتعاليه، وتتجاهل كونه قراءة بشرية مشروطة وتاريخية. ومن هنا، دعا أركون إلى ضرورة مراجعة مسلمات أصول الفقه التي انبنى عليها، وإلى إخضاع هذا الخطاب للفحص التاريخي والتأويلي، بغية الكشف عن تاريخيته المغيّبة. فهدف أركون هو استعادة أصول الفقه بوصفه منتَجًا ثقافيًا لا خطابًا متعاليًا، وذلك لتحرير الفكر الإسلامي وفتحه على أفق المساءلة النقدية والعقلانية. ولهذا أردنا في هذا المقال أن نبين الأدوات النقدية التي استخدمها أركون، وأن نقف على أهم مخرجاته.

كلمات مفتاحية: تأويلية؛ أصول الفقه؛ تاريخية؛ هيرمينوطيقا؛ إبستيمية.

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1. Introduction:

Many contemporary modernist scholars have sought to reinterpret and reevaluate Islamic heritage through various projects with differing objectives. They mostly have in common an urgent call for the inclusion of modern Western methodologies in new interpretations as more efficient alternatives that they consider more effective in interpreting the Islamic heritage and more capable of modernizing the Islamic mind and bring it out of its Longstanding traditions.

Their studies in the field of the principles of jurisprudence are of great importance due to the value of the subject matter itself, as the principles of jurisprudence represent the cornerstone of the study of Sharia law, and on the profound issues raised by these approaches regarding the possibility of establishing a definitive foundation that transcends time and place, as well as the issue of whether the principles of jurisprudence are already complete or open to additions and radical changes.

The study of this topic by the Algerian thinker Muhammad Arkoun came as part of his project to study the Islamic reason with the aim of understanding and critiquing its mechanisms in order to transcend and modernize it, as Arkoun explains in his call to reconsider the foundations on which the understanding of Sharia is built.

Arkoun sought to critique the methodology of Islamic jurisprudence through the study of the book Al-Risala by Al-Shafi'i, considering that renewal in jurisprudence is not limited to modifying some rules, but requires a radical change in the way of thinking and research methodology, thus employing the idea that all products of the human mind are linked to the time and place of their production, in accordance with the historical maxim established by contemporary hermeneutics. This approach rejects the possibility of ideas transcending time and place, and opposes the possibility of definitive rooting and establishment. Within contemporary hermeneutics, there is no longer any place for transcendence or definitive truth; Every text is open to multiple and infinite interpretations.

To the extent of our knowledge, we found some studies that intersect with our research topic in some details. For instance, we found a master's thesis entitled "The stance of Modernists on Fundamentalist Jurisprudence: Muhammad Arkoun as an example." It was written by researcher Mustafa Nayef Mustafa Balbisi, supervised by Nasir al-Din al-Sha'ir, at An-Najah National University, Palestine, in December 2021. However, the researcher focused on the topic of ijtihad to the exclusion of other fundamentalist topics.

An additional article is: Understanding Western Hermeneutics and Islamic Interpretation: Archaeological Excavations at the Roots, written by researcher Amrush Abdel Hamid, published in ASJP Morocco magazine, No. 2, April 2022. Amrush’s article is an analytical study that compares the roots

of the terms "interpretation" and "hermeneutics" and examines the cultural and epistemological contexts that shaped them from ancient times to the modern era. However, it is a terminological analysis that has no bearing on the outcomes of the application of hermeneutics

We will attempt to clarify the arguments used by Arkoun in his critique of the principles of jurisprudence by answering the following questions: What do we mean by "hermeneutics," and what are the most prominent arguments used by Arkoun and other modernists to critique Islamic reason in general and the principles of jurisprudence in particular? What strategy did Muhammad Arkoun use to critique the principles of jurisprudence?

This research aims to study and explain Muhammad Arkoun's position on the principles of jurisprudence and to clarify the most prominent hermeneutic concepts he used in his critique of traditionalism and in his emphasis on the need to develop this science in line with current intellectual challenges.

The nature of the research and the subject determine the methodology to be followed. Therefore, in this article, we have relied on an analytical and critical approach in analyzing and explaining the various ideas presented by Arkoun with all their complexity and epistemological intricacies. We have also relied on an inductive approach in tracing the various terms and concepts that are disputed in order to arrive at conclusions and interpretations for them.

Arkoun approached the principles of jurisprudence with criticism, using the tools and methods he acquired from his study of Western ideology, which reflects his influence by modern intellectual trends, as well as his quest to present a renewal methodology from his own point of view that revisits many issues related to the emergence of the principles of jurisprudence and its mechanisms. To illustrate some of the tools, propositions, and methodologies used by Muhammad Arkoun and other modernists, we will begin with hermeneutics.

2. The Concept of Hermeneutics and its most important principles:

2.1. The Concept of Hermeneutics:

Defining and identifying any concept that allows for differentiation between it and other perceptions within the intellectual system, drawing its boundaries, extensions, and intersections with other theories. The term and concept, with its various issues, is nothing more than a way of organizing scientific experience and expressing it accurately. (benkrad, 2025).

With this definition, it is difficult to fully define the concept of hermeneutics because it has changed in terms of scope and content and has undergone many shifts throughout its chronological course. It should be noted at the outset that the term "atta'wiliya" is the approach we have chosen to translate the term "hermeneutics" for many epistemological reasons that cannot be detailed here. We would have used the term atta'wiliya instead of

hermeneutics if the article had been in Arabic. However, in this context, we will use the word hermeneutics, which is a word of Greek origin that initially had a range of meanings revolving around explanation, interpretation, clarification, and translation. It was then used to refer to the philosophy of understanding, interpretation, and meaning. It has undergone many shifts and twists that have changed this philosophy in terms of scope and content, and there are no limits to its scope except the search for meaning and the need to clarify and interpret it (Darraj & yaktin, 2003, p. 230). Wherever rules have been established, judgments have been made, and systems have been put in place to explain or understand texts, or to decipher their codes, then hermeneutics comes into play (Mustapha, 2003, p. 47) . All processes aimed at deciphering the codes of texts fall within the framework of hermeneutics.

"The important discovery that hermeneutics offers in general, about understanding texts, is that understanding is not only subject to language in which the text is written and the rules agreed upon by the speakers of that language, but also to the historical circumstances in which it is read. In other words, there is no such thing as innocent reading or single meaning (Al-shara, 2011, p. 127).

Hermeneutics emphasized two dimensions that cannot be overlooked when reading any text. The first dimension is that of possibility. This philosophy eliminated the certainty and confidence that the reader had when explaining in the validity of that explanation or its conformity to the truth.

Thus, every reading becomes merely one possibility among many alternatives that will change and differ according to the readers and their circumstances. The second dimension established by hermeneutics is that of historicity. No reading can be said to transcend time, place, or the circumstances of its production, because reading is inevitably governed by the reader's level, background, temporality, and historical horizon.

Therefore, what concerns us in this context is not to trace the meanings of hermeneutics or delve into its twists and turns, but rather one of its most important propositions, which Arab modernists have employed in their critique of Islamic heritage and in their reading of the science of jurisprudence in particular. This proposition is "historicism." What is meant by it?

2.2. The concept of historicism:

The etymological origin of the term "historicism"or "attarikhiya" in arabic goes back to the word "arrakha" which means to link an event to its time, as Ibn Manzur said: "Arrakha refers to the time of something...and Al-Sawli said that the history of everything is its purpose and the time at which it ends." (Manzur, p. 58)

Before the term "historicism" was transferred to the field of philosophical concepts, it was used only in the sense of describing through history. Its counterpart in French is the word "historique," meaning the relation of something to history, as in our saying, "historical figures," among other examples. It corresponds to the masculine form "historical," as in "the historical site."

In the words of Ibn Khaldun, "the reality of history is that "it is news about human society, which is the civilization of the world, and what affects the nature of that civilization, such as savagery, domestication, and the various types of domination of some humans over others, and what arises from that in terms of kings, states, and their ranks, and what humans achieve through their actions and endeavors in terms of earnings, livelihoods, sciences, crafts, and everything else that occurs in that civilization by its very nature" (Kheldoun, 2012, p. 45)

However, this word did not enter the field of discourse as a term until after it was translated from foreign languages that used the word "Historicisme." The Larousse Grand Dictionary states that the word first appeared in the critical magazine published on April 6, 1872... (Arkoun M. , Islam, History, and Progress, 1977, p. 17)The Robert dictionary did not include the word, because it is in fact a mystical term used by existentialist philosophers in particular to refer to the human ability to produce a series of events, systems, and cultural products that together constitute the destiny of humanity.

"Historicism" or "attarikhiya" as a term in Arabic was derived from "el Masdar assinai" to carry a meaning completely different from the original meaning, where "proponents of this approach argue that language, culture, and religion should be interpreted according to historical context, and this trend rejects theories that do not consider time as an element in the interpretation of events." (Zarrouk, p. 51). Thus, the word "historical" has become a term that refers to the nominal rather than merely descriptive.

The focus on the temporal dimension in interpreting events means that "historicity" is a realistic statement. Arkoun cited A. Touraine's definition of historicity, saying: "It is the ability of every society to produce its own social and cultural sphere and its own historical environment" (Arkoun M. , Islam,history,and progress, p. 18).

It is a characteristic of what is historical, i.e., non-fictional and established by the rules of historical criticism. (Arkoun M. , Islam, History, and Progress, , 1977, p. 18).

Historicity, on the other hand, neglects the conditions of the production of ideas and events, and is therefore considered a stage before historicity. Arkoun, therefore, finds historicity to be one of those concepts that "provoke

endless debate to the point of becoming unusable, as most of the definitions proposed for it are ideological". (Arkoun m. , 1977, p. 18)

The dictionary Le petit Robert states that the word "historicism" means the doctrine that records events and studies them within their historical context, while "historicity" is a characteristic of what is historical. (Robert, p. 932)

In this regard, Arkoun drew distinctions between "historicism" and "historicity," as well as the differences between the two theories. However, we find those who use the two terms interchangeably, as did Haj Ahmad, who quoted Foucault's definition of historicism under the heading of historicity, He said that it is "a contemporary epistemological concept that refers to the conditions of the production of ideas within a specific cultural and historical context, i.e., the backgrounds of the production of ideas and the conditions that shape them in terms of their concepts and their own deductive structure, and their representations at the level of the epistemological yield of each individual" (Haj hamed, 1996, p. 141)

As for the terminological definition of "historicism," Jamil Saliba says: "Historicism is the claim that present circumstances arise from historical development...Proponents of this doctrine believe that we cannot judge ideas and events except in relation to the historical context in which they appeared, not in relation to their intrinsic value, because if we look at them from an intrinsic perspective alone, we may find them wrong or reprehensible, but if we relate them to the historical context in which they appeared, we find them natural and necessary." (Saliba, 1994, p. 229).

The Laland Encyclopedia states that historicism is "a viewpoint that considers a subject of knowledge as the current result of a development that can be traced in history." (Lalande, 2001, p. 561)

Ali Harb says that "historicism means that events, practices, and discourses have their real origins, temporal and spatial contexts, and material and worldly conditions, and it also means that structures, institutions, and concepts are subject to development and change, that is, their susceptibility to transformation, substitution, and re-employment." (Harb, 1995, p. 65).

Arkoun said that by historicism he means "the changing and transforming nature of the mind, and therefore the changing nature of the rationality produced by this mind." (Arkoun M. , Islamic Thought: Criticism and Ijtihad, 2012, p. 234). This is ultimately the meaning of Arkoun's critique of the Islamic mind. The Islamic mind is not something absolute or abstract that exists outside of time and space, but rather something that is linked to specific circumstances and conditions. It cannot be transcendent, nor can it be valid for all times and places. What is valid for one era cannot be valid for another, according to Muhammad Arkoun.

Arkoun also considered historicism to mean "the study of change through time, that is, the change that affects ideas, morals, and institutions

according to different eras and societies" (Arkoun M. , The historicism of arab islamic thought, 1998, p. 74)

Historicism is the essence of the revolutionary reform of Islamic thought in Arkoun's project "Critique of Islamic Reason." To study the history of Reason, Arkoun borrowed the term "episteme" from Michel Foucault, which he developed and used to divide modern and contemporary Western thought into three major stages.

For Arkoun, as for Foucault, episteme refers to "the comprehensive intellectual system that implicitly, deeply, or archaeologically controls an entire epistemic period" (Arkoun M. , the histiricism of arab islamic thought, 1998, p. 44). It is the cognitive unconscious of a given period, representing the axioms, backgrounds, and presuppositions that implicitly control

all intellectual production without coming to the surface.

Therefore, the episteme of the Islamic reason includes the assumptions and presuppositions that the Islamic mindset implicitly uses in the production of knowledge. Based on Arkoun's understanding of the mechanisms of the mind and its epistemology, he believes that the understanding and interpretation of revelation is linked to human reality, "the perceptions that prevail at a stage of history reveal it and bring it out of the mind into the open: Explanation and interpretation. The interpretation of the world and its events and the interpretation of the text, which is part of the first interpretation and stems from it, for every part of the divine discourse is perceived and understood based on a certain conception of the world, and is influenced by and follows this conception." (Boukabash, 2003, p. 117)

3.The historicism of the fundamentalist mind and the impossibility of rooting:

3.1. The concept of fundamentalist raison:

Arkoun raises the problem of defining this raison, which "has relied and continues to rely on processes of fundamentalization [which means] the search for the most valid methods of reasoning and the most accurate analytical and deductive means of linking legal rulings and the principles from which they are derived, or of justifying what must be believed and is correct based on a correct understanding of the original texts that have no origin before or after them." (Arkoun M. , Fundamentalist thought and the impossibility of authenticity, 2002, p. 7)

Arkoun established the idea of the impossibility of rooting, or the historicism of the fundamentalist mind, in several steps, which are:

-Selecting a sample from within the field of jurisprudence for study: Arkoun had to determine the sample he would highlight and use to define the concept of fundamentalist reason, and then critique it using interpretive arguments.

To answer questions about defining the concept of fundamentalist reason, Arkoun reviews several possible options (Arkoun M. , The historicism of arab islamic thought, 1998, pp. 66,67):

-Tracing the concept in its origin and development in a genealogical study, which, according to Arkoun, takes us back to the linear history of ideas. For this reason, he did not follow this method. But we do not see what the problem with this option is, as it would allow us to examine all stages in detail and observe the changes and maturation that the concept underwent over time.

-Presenting the concepts of this fundamentalist Reason in different schools, then choosing the most worthy of this quality (rationality). However, this option breaks the unity of thought systems. According to Arkoun, his argument here is also weak because this method would also be effective, as comparing the concepts at different schools would allow us to understand the differences, varying points of view, and factors influencing these differences. This would allow us to see the origins from different angles and with greater clarity.

-Adopting a text or book and considering it a reference for study.

Arkoun preferred this last option, justifying his choice by saying, "Because we have a leading standard work that has been recognized since the third century AH as a source of consensus, namely, Al-Shafi'i's Risala" (Arkoun M. , The historicism of arab islamic thought, 1998, pp. 66,67).

This is because this book is considered the first and authentic attempt to establish the science of the principles of jurisprudence, as acknowledged by al-Razi when he said: "Before Imam al-Shafi'i, [people] used to discuss issues of jurisprudence, argue and object, but they did not have a comprehensive law to refer to in order to understand the evidence of the Sharia, and how to oppose and weigh them. Al-Shafi'i derived the science of the principles of jurisprudence and established a comprehensive law for people to refer to in understanding the ranks of Sharia evidence" (al-Shafi'i, p. 13)

Thus, the Risala was the founding moment of a different mode of thinking, as it contained the system that governed and continues to govern the Islamic mindset. In this regard, Arkoun says: "The Qur'anic discourse, the biography of the Prophet, and the biographies of Ali and the imams among the Shiites have been used to derive a mode of thinking characterized by the idea of principles, and this mode continues to guide Islamic thought to this day....

Despite its recourse to other systems (Greek philosophy and modern thought), the fundamentalist system remains the most influential and widespread" (Masrahi, Modernity in the Thought of Muhammad Arkoun, 2006, p. 65).

For this reason, Arkoun presented a comprehensive study of the book "Al-Risala," in which he defined the characteristics of the mindset contained in this book, distinguishing between two levels of presentation and analysis. Here, Arkoun separated the levels of his criticism of the Risala.

3.2. Levels of presentation and criticism of the book Al-Risala:

The first presentation: on its form and the circumstances of its writing.

Arkoun separated it and compared the editions and copies, verified and examined the reasons for its composition, reviewed the various chapters and sections of the book, and explained its subject by saying: "It suffices to glance at the titles of the chapters included in the index to discover that they all deal with one fundamental and central theme, which is the foundations of supreme sovereignty or supreme legitimacy in Islam" (Arkoun M. , The hitoriscism of arab islamic thought, 1998, p. 68).

The foundations of supreme sovereignty, as deduced by Arkoun from the treatise, can be divided hierarchically as follows (Arkoun M. , the historicism of arab islamic thought, 1998, p. 68):

A-"About supreme sovereignty or supreme religious legitimacy"*

B-The Holy Quran as an explicit source of standards based on divine

supreme sovereignty.

C-The Sunnah and the supreme sovereignty of the Prophet, peace be upon him. Arkoun says that the first person to arrange the Sunnah as a second source of legislation and prophetic sovereignty was Al-Shafi'i. This statement is not accepted and is the subject of lengthy debate.

D-Consensus, ijtihad, and its basic patterns, analogy (qyas), preference (Is'tih'san), and difference between opinions, which are human processes for crystallizing and respecting supreme sovereignty.

Nasr Hamid Abu Zayd concludes from this idea that Al-Shafi'i: "left the mind's effectiveness only to the field of analogy (qyas), for which he stipulated conditions that make it a kind of deduction limited by the boundaries of the previous source. Thus, the role of the mind is determined in the search for rulings found in the texts, even if they are hidden and implicit, requiring only to be searched for and discovered" (Zayd, 1995, p. 18)

Arkoun concludes that the content of the letter testifies "from the outset to the existence of a specific, strictly defined, influential, and guided mind that

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*– This is how Arkoun arranged them, and it seems as if he repeated the title in the first element without adding anything

grows and develops within the framework of a complete and self-contained corpus, namely the Qur'an and the Hadith." (Arkoun M. , the historicism of arab islamic thought, 1998, p. 69)By this he means that what al- Shafi'i presents in the Risala is presented as the true path, the indisputable truth, from which one must not deviate. Al-Shafi'i does not open up avenues for research, possibilities, reviews, and differences, but rather lays down what resembles a law that must be obeyed by anyone who wants the truth, and salvation.

Arkoun also believes that Al-Shafi'i's book later became the standard for authorship and a law that authors had to follow. Most authors in the field of Islamic jurisprudence and Islamic sciences in general begin their books in the same way, discussing the importance of the Arabic language and mastery of it, or presenting the rules and regulations of thought that must not be deviated from by those who seek to arrive at the truth of matters. This means that al-Shafi'i has become a reference, a model, and a school of thought in writing.

Arkoun says that it would be a major historical fallacy to search for contemporary concepts such as historicism in the Risala, but according to Arkoun, al-Shafi'i provides rich material that can be included under these headings. Arkoun believes that al-Shafi'i aims to achieve the transcendence of the Islamic mind over earthly history and to draw attention to the need to codify this history within the space of revelation. Arkon explains the semantic levels of these meanings as follows (Arkoun M. , the historicism of arab islamic thought, 1998, p. 74)

A-Imam al-Shafi'i defended the status of the language of revelation in comparison to other languages. as it was necessary to justify the choice of Arabic as the language for conveying revelation to humankind. However, according to Arkoun, this preference was not justified based on knowledge, but rather based on self-centeredness and by invoking the Holy Quran, where he argued that the Quran is purely in the Arabic language with Quranic verses confirming this (al-Fajari, Critique of Islamic Reason by Muhammad Arkoun, 2005, p. 135).

Imam al-Shafi'i assumes issues stemming from the core of history and critical knowledge, but responds to them with orthodox ideas according to Arkoun.

For this reason, Arkoun believes that "the religious mind operates within the framework of ready-made knowledge and extracts all correct knowledge based on the textual expressions of sacred writings, therefore the religious mind is, by its very nature, a subordinate mind." (Masrahi, Modernity in the thought of muhammed Arkon, 2006, p. 67) .

In fact, this is not a flaw in Imam al-Shafi'i's style of writing, as it is well known that his understanding of the pillars of discourse is one of the reasons for his success. In his Risala, al-Shafi'i does not address atheists or dissenters,

but rather attempts to classify the fundamentals as he understood them from their sources, addressing an audience of Muslims who believe in the authenticity of the Qur'an and that it is the word of God, and who seek knowledge in their holy book and not outside it. The word of God is proof for the Muslim audience.

Arkoun also believes that al-Shafi'i contributed to imprisoning the Islamic mind within the confines of a particular methodology that would serve as a strategy for erasing historicism in reality (Arkoun M. , the historicism of arab islamic thought, 1998, p. 74).Because the historical dimension was absent, or at least not explicitly present in the message, al-Shafi'i rarely referred to historical events and figures, and this approach is entirely consistent with the transcendent and sacral perspective (Arkoun M. , The historicism of arab islamic thought , 1998, p. 75).

Furthermore, the relationship (between truth and history) runs in one direction for al-Shafi'i—in Arkoun's view—in the sense that the Qur'an represents a vertical revelation—from above—of God's word on human history. The Qur'an does not owe anything to History; on the contrary, it includes and integrates it into the process of otherworldly time. (Arkoun M. , The hisroricism of arab islamic thought, 1998, p. 75)

Al-Shafi'i made "sources of legislation and laws" transcendent and sacred through techniques of inference, i.e., deducing legislative and legal rules based on a definitive divine or prophetic text collection (Arkoun M. , The historicism of arab islamic thought, 1998, p. 74), laying the foundations of linguistic thinking by establishing an absolute linguistic relationship between the transcendent truth revealed by God and the textual formulations (the Qur'an).

This transcendence and absoluteness are achieved by declaring language to be fixed, "because the divine source of the language of revelation cuts off the path to historicism and divides history into two parts: the pre-prophetic and the post- prophetic. It gives the text the authority to impose order through its words and meanings, not through its symbolism and connotations." (al-Fajari, Critique of islamic reason by Mohammed Arkoun, 2005, p. 137)

Anyone who reflects on Arkoun's words will find that he is trying to remove one dogmatic barrier only to erect another. By rooting the historicism of the Islamic mind, he excludes the religious mind, which differs in its tools of reasoning from the positivist mind, which is the addressee of the text of the message. The texts of the Qur'an are proof for Muslims because they have confirmed and believed in the prophethood of Muhammad (peace be upon him), and therefore his words are proof for them, and his statement that the words of the Qur'an are from God is binding on Muslims, and their use of verses as evidence is well-founded.

Furthermore, al-Shafi'i is not responsible for the backwardness of Muslims or their blind following simply because he wrote his Risala. He was a scholar who presented his study in the manner he knew and with the tools he possessed. The responsibility for change and modernization lies with those who came after him and does not detract from his stature or that of his work. Therefore, the problem, as we see it, is Arkoun's study of the principles of jurisprudence through a single work, as if it were the first and last written on the subject. This is despite the fact that the principles of jurisprudence are one of the Islamic fields in which there is a great deal of ijtihad, authorship, and disagreement between different schools of thought, sects, and groups.

B-Arkoun believes that al-Shafi'i considered the Sunnah to be a secondary source of legislation and supported the authority of the Sunnah with Quranic verses that stipulate this. In this step, the imam, by gathering Quranic verses to prove the authority of the Sunnah, also abolished historicism and updated these verses according to his own expectations, in line with the expectations of the problems of his time, while many of the verses cited indicate that "the Meccans remained cautious and opposed to the call, but this historical event did not attract Al-Shafi'i's attention, according to Arkoun" (Arkoun M. , the historisism of arab islamic thought, 1998, pp. 76,77)

This is especially true since many of the verses that were cited came to prove the prophethood of Muhammad, peace be upon him, in response to the deniers, or in the context of the sanctity and unity of God, and not to demonstrate the authority of the Sunnah and consider it a source of legislation.

This, in Arkoun's view, is a departure from the Qur'anic context and an application of the verses to "non-historical" issues. For this reason, Arkoun believes that the fundamentalist mind "attempts to form a coherent certainty that is coercive to the self, reassuring to the soul, and nourishing to the heart, based on a major inaugural event that divides history into two parts: before and after; that is, before and after the prophecy. This results in knowledge, in the sense of direct recognition or affiliation of the heart and emotions with irrefutable truths, and then knowledge in the sense of a set of technical procedures and methodologies followed in order to derive rules of practical application based on the texts" (Arkoun M. , the historicism of arab islamic thought, 1998, pp. 71,72)

Arkoun described this type of citation of Quranic verses as semiotic manipulation, because it is based on taking things out of context, that is, "Quranic verses are taken out of their context, i.e., the context of the Quran, the moment of the Quran, and the time of the Quran, to insert them into another context, namely the second, third, or fourth century AH. Jurists and

exegetes do this in order to legitimize interpretation, jurisprudence, and Sharia, and what is collectively referred to as the living Islamic heritage... [This process] deludes us into believing that the entire heritage is sacred simply because it cites Quranic verses and inserts them into another intellectual and political context, other than the context in which they first appeared" (Arkoun M. , The Qur'an: From Traditional Interpretation to Analysis of Religious Discourse, 2001, p. 37)

The fundamentalist mind, as Arkoun asserts, is one that operates within the framework of transcendence, supported by the correspondence between the Qur'an and the Sunnah, which Muslims feel intuitively, in addition to the belief in the clarity and simplicity of the verses, which "have been read without any linguistic, theological, or historical difficulty by generations of believers throughout the centuries and up to the present day. They considered them to be sufficiently clear and not in need of any kind of interpretation or exegesis" (Arkoun M. , The Historicism of Arab-Islamic Thought, 1998, p. 79).It is sufficient to have the linguistic competence to understand "all the meanings that God intended in the verses, which are capable of being actualized in the life of every believer, in every time or generation." (Arkoun M. , The historicism of arab islamic thought, 1998, p. 79).

Arkoun's criticism of Al-Shafi'i's method of citing Quranic verses is based on his denial of the internal structure of the text, as well as his denial that it is the word of God. Al-Shafi'i's citation of Quranic verses is based on his belief that the wisdom of the verses is linked to the generality of the wording and not to the specific reason. Regardless of the context in which the verses appear, al- Shafi'i cited the authority of the Sunnah with verses that were primarily intended to prove the prophethood of Muhammad (peace be upon him), because these verses can be interpreted in both ways. The Quran was written in an order different from the order in which it was revealed, forming a closed, eternal system with its own structure and semiotics. Arkoun, on the other hand, considers it a historical record deeply rooted in time and place.

C-The primacy of the Qur'an and Sunnah over analogy (qyas). Arkoun sees this primacy as a means of guiding reason and subjecting it to the text, attaching it to the supreme legitimacy enjoyed by the Qur'an and Sunnah.

The theory of analogy (qyas) is based on the cause (participation in the cause), which is the constant element in the case that justifies the transfer of the ruling from the original to the branch, or from what is stipulated to what is new, making the application of the ruling possible from a legal point of view.

This codification refers to the "ahistorical" nature of the Islamic mind through fundamentalist discourse, and Arkoun studies it in order to reinterpret it within the framework of historical markers. He sees jurisprudence and the principles of jurisprudence as a kind of positive law that the fundamentalist mind has worked to establish and apply in the name of Sharia as if it were divine law (al-Fajari, Critique of Islamic Reason in Muhammad Arkoun, 2005, pp. 139,140)

Arkoun says: "From a historical perspective, we note that theological discourse, as well as jurisprudential crystallizations or rulings described as divine law or Sharia, are both derived from Quranic discourse, but are not part of it. They are linked to the historical and cultural contexts in which theologians and jurists worked, and then retroactively applied their interpretations to the

texts they invoked in order to bring them into line with these interpretations." (Arkoun M. , The Qur'an: From Traditional Interpretation to Analysis of Religious Discourse, 2001, p. 36)

4- Conclusion

From the above, we conclude that Arkoun considers that the traditional principles of jurisprudence were developed in limited historical and intellectual contexts that are not commensurate with the epistemological and intellectual challenges of the modern era. For this reason, his position on the principles of jurisprudence was critical and characterized by modernization, from his point of view. He attempted to present new approaches that would contribute to the renewal and re-rooting of this science in line with the requirements of contemporary social and intellectual transformations.

However, by applying the historical approach to the principles of jurisprudence, Arkoun concluded that Islam in general—and not just the principles of jurisprudence—is not a transcendent, complete, and unified entity, but rather one that changes with history and its circumstances and varies according to place. For this reason, he speaks of multiple Islams. From the beginning, Islam has interacted with the history of its revelation, and the first experience can only be understood by understanding the period in which the Qur'an came, and even the period before it. Arkoun thus leaves no room for the immutable in religion and attempts to shake up the foundations and cornerstones of Islam. This conclusion cannot satisfy the religious mind—in general, and the Muslim mind in particular—because it believes in the eternity of the Qur'an and that it contains a complete system, valid for all times and places. This is a fundamental belief for Muslims, who believe first and foremost in the existence of the ultimate truth, namely "God." This belief is based on rational thinking, and then they accept the validity of everything

in their holy book. For example, there are constants rooted in the core of human needs, which the Quran stipulates must be preserved. These are the subject of the study of the objectives of Sharia, which cannot be denied or linked to the time of revelation or the time of establishment. There is agreement on their generality.

Arkoun's criticism of the principles of jurisprudence applies perfectly to his secular roots. Arkoun, from a purely scientific perspective, fought against one dogmatic framework to establish another. And if we see that the reliability of religious reason has its justifications, it works as scientific criticism in proving the validity of religion, as is the case in theology. If it is proven to him, he then accepts the details that this religion has brought, even if they are not amenable to rational consideration due to the nature of the subject, such as the unseen, which we call hearsay, because our knowledge of it comes from the news brought to us by the Prophet, peace be upon him, which we believe to be true because our belief in the truth of his prophethood is proven by reason.

As for Arkoun's criticism of Al-Shafi'i for using Qur'anic texts for purposes other than those for which they were revealed, this is unacceptable because the reasons for the revelation of the verses do not determine the meaning of the verse in such a way that it is incapable of producing any new meanings, even if the language allows for them. There is a comprehensive scientific methodology for determining how Muslims deal with the meanings of texts, a methodology developed by Muslims to be consistent with the specificity of Islamic texts as they see it.

Therefore, applying Western methodologies to Islamic texts requires a deeper reading of the Islamic methodology first, and then drawing on whatever can add to or complement this methodology. We cannot blame al-Shafi'i, who wrote fourteen centuries ago, for not including Western methods in his books.

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