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## DISSECTING ROBERT GLEAVE'S ORIENTALIST UNDERSTANDING

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**Abstract:** *This article examines the thoughts and approaches of Robert Gleave in the study of Islamic law, focusing on criticizing his methodology and epistemology. As an orientalist, Gleave adopts a philological and historical approach in researching Islamic law, especially in the Shia tradition. This approach has been criticized by various Muslim scholars for ignoring the normative and transcendental aspects of Islamic law. Moreover, Gleave's skepticism towards classical sources of Islamic law raises questions regarding the validity of his approach in understanding Islamic law as a revelation-based system. The paper also discusses Gleave's bias in interpreting Islamic hermeneutics as well as the limitations of his analysis in applying Islamic law in the context of contemporary Muslim life. Using the perspective of Islamic epistemology, this paper concludes that Gleave's approach needs to be examined more critically so that it is not only Western academically oriented but also respects the principles of Islamic law held by Muslims.*

**Keyword:** *Robert Gleave, Islamic law, orientalism, Islamic studies*

## INTRODUCTION

The study of Islamic law in Western academia has undergone significant development in recent decades. One of the leading figures in this field is Robert Gleave, a British academic known for his in-depth works on Islamic law, through the Shia tradition. Through philological, historical and hermeneutical approaches, Gleave attempts to uncover the dynamics of the formation and evolution of Islamic law. However, his thoughts have drawn various responses, especially from Muslim academics who consider that Gleave's approach does not fully reflect Islamic epistemology. Robert Gleave is one of the leading academics in the field of Islamic legal studies, especially in the aspects of hermeneutics and Shia thought. As an orientalist, his approach often invites debate among Muslim scholars. This paper aims to examine Gleave's thinking, trace his academic background, and provide a critique from an Islamic perspective of his analysis of Islamic law and Shia interpretation. Islam as a legal system has unique characteristics compared to other legal systems. Unlike the Western legal system that emphasizes rationality and legal positivism, Islamic law includes normative aspects derived from revelation. Therefore, academic approaches to Islamic law are often contentious, especially when conducted by orientalists who use academic methods that differ from those of traditional Muslim scholars.<sup>1</sup>

Robert Gleave, known as a Western academic, has produced various works related to Islamic law and hermeneutics in the Shia tradition. Certainly, his thoughts are not free from criticism, especially from Muslim scholars who consider that his approach prioritizes philological analysis without considering the spiritual and epistemological aspects of Islam.<sup>2</sup> In addition, Gleave's works are often considered to focus more on the historical study of Islamic law rather than recognizing its underlying transcendental value. His thinking is heavily influenced by Western academic approaches that tend to be skeptical of Islamic primary sources, such as the Qur'an and Hadith. This contributes to the criticism that the study of Islamic law by orientalists such as Gleave often ignores the spiritual dimension that is an integral part of the Islamic legal system.<sup>3</sup> In the development of Islamic studies in the Western world, orientalists like Gleave often present a different perspective from Muslim academics. While a small number of Muslim scholars see his contribution as an attempt to understand Islamic law from a more neutral academic perspective, most criticize him for his approach that does not sufficiently respect the revelation-based epistemology of Islam.<sup>4</sup>

Robert Gleave's study of Islamic law also deals with political and social aspects, especially in the Shia tradition. As an academic researching Islamic law, Gleave adopts a philological approach in tracing the sources of Islamic law. He tried to understand how classical texts were interpreted by scholars of different eras and how legal interpretations underwent changes in different historical contexts in this paper will examine more deeply the thoughts and academic approaches of Robert Gleave in the study of Islamic law. Evaluating the extent of his contribution, as well as criticizing his approach from the point of view of Islamic epistemology. Thus, the question arises:

1. What is Robert Gleave's methodological approach in understanding Islamic law, especially through the Shia tradition?
2. What are the academic criticisms, especially from the perspective of Islamic epistemology, of Gleave's perspective on the source and authority of Islamic law?
3. To what extent is Gleave's thinking relevant or even problematic in the context of the diversity of madhhabs and the needs of contemporary Muslims?

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<sup>1</sup> Wael B. Hallaq, *The Origins and Evolution of Islamic Law* (Cambridge University Press, 2005).

<sup>2</sup> Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence* (Islamic Texts Society, 2011).

<sup>3</sup> Hamid Dabashi, *Shi'ism: A Religion of Protest* (Harvard University Press, 2011).

<sup>4</sup> Jonathan A.C. Brown, *Hadith: Muhammad's Legacy in the Medieval and Modern World* (Oneworld Publications, 2009).

## RESEARCH METHODOLOGY

This research uses a qualitative method based on library research with an epistemological criticism analysis approach, to dissect Robert Gleave's thinking in understanding Islamic law, especially in the Shia Imamiyah tradition. Primary data is obtained from Gleave's works such as *Scripturalist Islam* and his articles in the journal *Islamic Law and Society*, while secondary data is obtained from the literature of orientalism criticism such as Wael B. Hallaq and the works of Sunni scholars. Hallaq as well as the works of classic and contemporary Sunni scholars such as Ibn Taymiyyah (*Minhaj as-Sunnah*), Sheikh bin Baz, and Dr. Nasir al-'Umar. This study combines critical hermeneutics and the Ahlus Sunnah wal Jama'ah mazhabi approach to expose the fundamental flaws in Gleave's approach, as well as to examine and criticize the Imamiyah Shia understanding that is his object - which, according to some scholars, deviates theologically and methodologically from Islamic principles such as faith in the companions, tawhid uluhiyyah, and the closure of revelation after the Prophet Muhammad ﷺ.

## ROBERT GLEAVE'S BIOGRAPHY

Robert Gleave was born in England and completed his academic studies in Islamic studies and Islamic law. He obtained his doctorate from the School of Oriental and African Studies (SOAS), University of London, focusing on the study of classical Islamic law and legal hermeneutics in the Shia tradition. From the outset, Gleave was interested in how Islamic legal texts are interpreted and applied in various historical and social contexts. Gleave developed his academic career at leading UK universities, including the University of Exeter, where he became a professor of Islamic studies. There, he actively developed the study of Islamic law using philological and historical approaches. He was also involved in various research projects on the development of Islamic law in the contemporary Muslim world.<sup>5</sup>

Robert Gleave was born into an academic environment that influenced his interest in Islamic studies. Since his studies at SOAS, University of London, he has shown an interest in Islamic law, especially in philological approaches and legal hermeneutics. Early in his academic career, Gleave conducted research on Shia legal interpretation. He focused on how Shia scholars understand legal texts and how their interpretative methodologies differ from those of Sunni scholars.<sup>6</sup> One of Gleave's main focuses is how Islamic law develops in a socio-political context. He argues that Islamic law is not only influenced by the normative text, but also by the historical and cultural conditions in which it is applied. As an academic, Gleave is active in international conferences and collaborates with Islamic universities in the Middle East. He sought to understand Islamic legal perspectives directly from primary sources and interviews with local scholars. In addition, Gleave has also developed a research project focusing on the history of Islamic law in Iran and Iraq. His research often highlights the relationship between classical legal texts and the evolving legal practices in contemporary Shia society. In several of his publications, Gleave criticizes traditional approaches to Islamic law that tend to see it as fixed and unchanging. He emphasizes that fiqh is the result of human interpretation and therefore has an element of flexibility.<sup>7</sup>

Gleave also pays great attention to the concept of authority in Islam. In several of his works, he examines how legal authority is interpreted by different Islamic groups and how this affects the development of Islamic law as a whole. With his academic approach, Gleave is often compared to other scholars such as Wael Hallaq and Joseph Schacht. However, he emphasizes the hermeneutical aspect and how interpretations of Islamic law can change over time.

<sup>5</sup> W Hallaq, *The Origins and Evolution of Islamic Law* (Cambridge University Press, 2005).

<sup>6</sup> Robert Gleave, *Scripturalist Islam: The History and Doctrines of the Akhbari School of Twelver Shi'ism* (Brill, 2007).

<sup>7</sup> M. H Kamali, *Principles of Islamic Jurisprudence* (Islamic Texts Society, 2011).

## ROBERT GLEAVE'S UNDERSTANDING OF ISLAMIC LAW

Robert Gleave views Islamic law as a product of historical interpretation that develops in accordance with the social and political context. He emphasizes that *fiqh*, as a manifestation of Islamic law, is dynamic rather than static. Robert Gleave understands Islamic law as a historical construction that develops through human interpretation of the texts of revelation. In his view, *fiqh* is not merely the application of laws derived from the Qur'an and Hadith, but also a reflection of the social and political dynamics of Muslims throughout history. This approach distinguishes Gleave from traditional scholars who tend to see *fiqh* as fixed and unchanging.<sup>8</sup> One aspect that Gleave focuses on is the method of interpretation in Islamic law, but from a Shia perspective. He argues that the hermeneutical method used by Shia scholars has fundamental differences with the approach used in the Sunni school. In his study, Gleave highlights the role of *ijtihad* in Shia law and how deductive methods and analogies are used to extract law from primary sources.<sup>9</sup>

Gleave also highlights the difference between the Akhbari and Ushuli approaches in the Shia school. The Akhbari emphasize adherence to hadith texts without rational interpretation, while the Ushuli tend to be more flexible in understanding texts through *ijtihad* methodology. Gleave argues that this difference has major implications for how Islamic law is applied in Shia society.<sup>10</sup> In addition, Gleave criticizes the notion that Islamic law is monolithic. He asserts that there are diverse understandings of Islamic law that have developed across different schools of thought and geographical regions. For example, law in Shia-dominated Iran has different characteristics compared to Islamic law in Sunni areas such as Egypt or Saudi Arabia.<sup>11</sup> Gleave's academic approach often contradicts the perspective of traditional scholars who prioritize religious authority in interpreting Islamic law. He argues that authority in Islam derives not only from sacred texts, but also from social constructions that develop within Muslim communities. This opinion invited criticism from Muslim academics who considered that his approach prioritized sociological analysis without considering the transcendental aspects of Islamic law.<sup>12</sup>

In his analysis of Islamic law, Gleave also highlights the importance of understanding the historical context in interpreting legal texts. He considers that Islamic law cannot be understood separately from the socio-political reality that surrounds it. Therefore, he adopts a historical-critical approach in studying the development of Islamic law from classical to contemporary times.<sup>13</sup> Gleave also examines the relationship between Islamic law and politics in the Shia tradition. He argues that the concept of *Wilayat al-Faqih* that has developed in contemporary Shia thought is the result of the evolution of political thought based not only on religious texts, but also on power dynamics in Islamic history. This approach has led him to be compared with scholars such as Hamid Dabashi and Said Arjomand who also examine Islamic law in a political context.<sup>14</sup> As such, Robert Gleave's understanding of Islamic law is rooted in historical, philological and hermeneutical approaches. Although his study provides new insights into the study of Islamic law, his approach remains a matter of debate between Western academics and traditional Muslim scholars. Criticism of his work generally revolves around his assumption that Islamic law is the result of human interpretation alone, without considering the transcendental aspects that are at the core of the Islamic legal system.

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<sup>8</sup> Robert Gleave, *Islam and Literalism: Literal Meaning and Interpretation in Islamic Legal Theory* (Edinburgh University Press, 2007).

<sup>9</sup> H Mavani, *Religious Authority and Political Thought in Twelver Shi'ism: From Ali to Post-Khomeini* (Routledge, 2013).

<sup>10</sup> Robert Gleave, *Scripturalist Islam: The History and Doctrines of the Akhbari School of Twelver Shi'ism* (Brill, 2001).

<sup>11</sup> W Hallaq, *The Origins and Evolution of Islamic Law* (Cambridge University Press, 2005).

<sup>12</sup> Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence*.

<sup>13</sup> Hamid Dabashi, *Shi'ism: A Religion of Protest* (Harvard University Press, 2011).

<sup>14</sup> Robert Gleave, *Religion and Society in Qajar Iran* (Routledge, 2012).

## SHIA AS THE OBJECT OF GLEAVE'S RESEARCH AND ITS CONTROVERSY IN ISLAM

In his works, such as 'Scripturalist Islam: The History and Doctrines of the Akhbari Shi'i School', he examines in great detail the internal dynamics of the Shi'i school, especially the differences between the two major schools, namely Akhbari and Ushuli. Gleave explains that the Akhbari Shi'i school rejects the use of *ijtihad* and accepts only the traditions of the Imams as the sole basis of law. In contrast, the Ushuli opened up space for *ijtihad* and rational reasoning in the determination of law.<sup>15</sup> This view has had a major influence on the way law is understood within the Shia community, especially in Iran. Gleave explores how the shift from Akhbari to Ushuli influenced the system of government in the Islamic Republic of Iran.

Gleave also shows interest in how the concept of Imamah in Shia shapes the structure of scholarly authority. Shia Imams are seen as *ma'shum* and have the authority to interpret the law with a spiritual position equivalent to prophethood.<sup>16</sup> This view has caused controversy among Sunnis because it contradicts the principle that no human being after the Prophet is *ma'shum*.<sup>17</sup> In his book 'Misquoting Muhammad', Jonathan Brown mentions that differences between Sunnis and Shias often stem from interpretations of history and religious authority, including views on the Prophet's companions and the legitimacy of leadership.<sup>18</sup>

One of the most controversial issues is the Shia cult of the Imam, which in Sunni literature is considered to deviate from monotheism because it resembles the attribution of divine attributes to humans.<sup>19</sup> Although Gleave responds to this criticism by pointing out that in the internal Shia context, the Imam is a medium of divine knowledge but not God. However, this is not enough to quell the controversy that has taken root in Sunni-Shia discourse.

In addition, the concept of *taqiyyah* or hiding beliefs in the Shia tradition has also drawn criticism from Sunni scholars who see it as a form of legalization of lies.<sup>20</sup> Gleave explains that the practice of *taqiyyah* emerged in the historical context of Shia oppression and is not merely a manipulative tactic. Although Gleave attempts to show a rational framework in the Shia legal system, many critics say that his approach is too textual and isolated from the realities of Muslim life today.<sup>21</sup>

Some classical and contemporary Sunni scholars even consider Shia not to be part of Islam based on arguments interpreted from the Qur'an and Hadith. For example, in the works of Ibn Taymiyyah (*Minhaj as-Sunnah*) and Al-Farisi (*Al-Kashf wa al-Bayan*), Shia are accused of having teachings that deviate from the principles of Islam. Contemporary scholars such as Dr. Nasir al-Omar or Sheikh bin Baz have also issued similar statements. However, it is important to note that this view is not singular. There are also Sunni scholars who recognize that although there are deviations in some Shia teachings, it does not necessarily follow that all Shia adherents are disbelieved or expelled from Islam. This is an issue of *khilafiyah* (difference of opinion) that must be approached scientifically and objectively.

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<sup>15</sup> Gleave, *Scripturalist Islam: The History and Doctrines of the Akhbari School of Twelver Shi'ism*, 35-38.

<sup>16</sup> Gleave, *Scripturalist Islam: The History and Doctrines of the Akhbari School of Twelver Shi'ism*, 102.

<sup>17</sup> Moojan Momen, *An Introduction to Shi'i Islam: The History and Doctrines of Twelver Shi'ism* (Yale University Press, 1985), 156.

<sup>18</sup> Jonathan A.C. Brown, *Misquoting Muhammad: The Challenge and Choices of Interpreting the Prophet's Legacy* (Oneworld Publications, 2017), 201.

<sup>19</sup> Ibn Taymiyyah, 'Minhaj As-Sunnah an-Nabawiyah', in *Jilid 2* (Riyadh: Dar Alam al-Kutub), 123.

<sup>20</sup> Seyyed Hossein Nasr, *Shi'ism: Doctrines, Thought, and Spirituality* (State University of New York Press, 1988), 98.

<sup>21</sup> Mohammad Hashim Kamali, *Maqasid Al-Shariah, Ijtihad and Civilisational Renewal* (International Institute of Islamic Thought (IIIT), 2012), 145-147.

Another criticism targets Gleave's tendency to only examine Shia as a representation of Islamic law without a balanced comparison with the Sunni tradition that is the majority. Even in academic discourse, this too narrow focus can obscure epistemological diversity in Islam. Although Gleave is considered to have made a major contribution to the study of Islamic law from a Western perspective, his approach is still too narrow and needs to be supplemented with normative understandings recognized by the majority of Muslims.

### ROBERT GLEAVE'S WORKS

Gleave has written several works in Islamic legal studies. One of his most influential works is *Islam and Literalism: Literal Meaning and Interpretation in Islamic Legal Theory*, which discusses how the literal meaning of Islamic legal texts is understood in various Islamic legal traditions, including Sunni and Shia. In this book, Gleave argues that debates over literal interpretation in Islamic law have been ongoing since the classical period and have had a major impact on the development of *fiqh* in the various schools of thought. He examines how classical scholars understood the literal meaning of the Qur'ān and Hadith, and how this interpretation developed in the Islamic legal tradition, especially in the context of Shia and Sunni.<sup>22</sup>

In *Islam and Literalism*, Gleave argues that the concept of literal meaning in Islamic law is not static, but develops over time and is influenced by specific historical contexts. He shows how Islamic jurists from different periods dealt with the problem of textual interpretation, and how their approaches differed depending on their theological backgrounds and schools of thought.

Although recognized as an important contribution, Wael Hallaq criticized Gleave's approach as being too detached between literal and contextual meanings, while in the Islamic tradition these two aspects are often closely intertwined.<sup>23</sup> Gleave's work on literalism is also criticized because it tends to generalize the concept of literalism to all schools of Islamic law. Gleave pays little attention to the variety of approaches to the text that exist within the various Sunni and Shia schools of thought.

In addition, Gleave also wrote *Scripturalist Islam: The History and Doctrines of the Akhbari School of Twelver Shi'ism*, which explores the Akhbari school of Imamiyah Shi'ism. The book discusses how the Akhbari group rejected the use of reason in *ijtihad* and favored hadith as the main source of law. He explains the internal debate within the Shia school between the Akhbari and Ushuli and how this influenced the development of Islamic law in the modern Shia world.<sup>24</sup>

In *Religion and Society in Qajar Iran*, Gleave examines the relationship between Islamic law and society in Iran during the Qajar era, highlighting how Shia clerics played a role in Iran's legal and political systems and how Shia legal doctrines developed in the context of social and political change. The book provides deep insights into the dynamics of religious authority and Islamic law in Iran before the Islamic Revolution.<sup>25</sup>

One of Gleave's books is *Violence in Islamic Thought from the Qur'an to the Mongols* (2015), which he co-edited with István T. Kristó-Nagy. This work discusses the concept of violence in Islamic thought from the early period to the Mongol invasion. The book includes various perspectives from leading scholars on how violence is understood and justified in classical Islamic texts.<sup>26</sup>

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<sup>22</sup> Gleave, *Islam and Literalism: Literal Meaning and Interpretation in Islamic Legal Theory*.

<sup>23</sup> Wael B. Hallaq, *The Impossible State: Islam, Politics, and Modernity's Moral Predicament* (Columbia University Press, 2013).

<sup>24</sup> Gleave, *Scripturalist Islam: The History and Doctrines of the Akhbari School of Twelver Shi'ism*.

<sup>25</sup> Gleave, *Religion and Society in Qajar Iran*.

<sup>26</sup> Gleave, R. & Kristó-Nagy, I. (eds.), *Violence in Islamic Thought from the Qur'an to the Mongols* (Edinburgh University Press, 2015), 210-235.

In *Violence in Islamic Thought*, Gleave contributes a chapter on the concept of violence in Shia legal thought. He analyzes how classical Shia jurists understood and justified the use of violence in various contexts, including in situations of war and internal conflict. His analysis shows the complexity of Islam's views on violence that cannot be simplified.

Gleave has also written many important articles in leading academic journals. One of his influential articles was "The Akhbari-USuli Dispute in Late Safavid Iran" published in the *Bulletin of the School of Oriental and African Studies* (2000). The article discusses the conflict between the Akhbari and Usuli schools in the context of Iranian history in the Safavid period.<sup>27</sup> In another article "Scripturalist Dimensions of Rationalist Zaydism" in *Islamic Law and Society* (2015), Gleave analyzes the scripturalist aspects of the Zaydi tradition, a branch of Shia often considered more rationalist than Imamiyah Shia. This analysis demonstrates the diversity within the Shia tradition of thought.<sup>28</sup>

Gleave also contributed to *The Oxford Handbook of Islamic Law* (2019) by writing a chapter on "Islamic Legal Theory: Twelver Shi'i Usul al-Fiqh". In this chapter, he provides a comprehensive overview of the development of legal theory in the Imamiyah Shi'i tradition, tracing its evolution from early to modern periods. Gleave's other editorial work is *Islamic Law: Theory and Practice* (1997) together with Eugenia Kermeli, which addresses various aspects of Islamic law from a historical and theoretical perspective. The book includes contributions from various leading scholars in the field of Islamic studies.

Gleave is also an editor and contributor to various academic collections, including *Interpreting Islamic Law: Tradition and Transition*, which addresses various aspects of change in Islamic law from historical and contemporary perspectives. In this book, he invites other scholars to explore how Islamic law has changed over time and how Islamic legal methodologies are adapting to modern challenges.<sup>29</sup>

In addition to his works focusing on Islamic law, Gleave has also written various academic articles highlighting the relationship between Islamic legal texts and social practices. In one of his articles, he discusses how the concept of *ijtihad* developed in Shia and how the approaches between Shia and Sunni scholars differ in using rationality in legal interpretation.<sup>30</sup>

Gleave has also contributed to various research projects focusing on the role of Islamic law in contemporary Muslim societies. He examines how Islamic law is applied in various national legal systems, particularly in Muslim-majority countries such as Iran and Iraq. He highlights how interpretations of Islamic law by religious institutions interact with state law and how Islamic law adapts to modern legal challenges.<sup>31</sup>

In addition to his academic works, Gleave is active in giving lectures and seminars on Islamic law at universities around the world. He is often invited as a speaker in international conferences on Islamic law, where he discusses how Western academic approaches can be used to understand the dynamics of Islamic law more deeply.<sup>32</sup>

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<sup>27</sup> Robert Gleave, 'The Akhbari-USuli Dispute in Late Safavid Iran', *Bulletin of the School of Oriental and African Studies*, 2000, 34–67.

<sup>28</sup> Robert Gleave, 'Scripturalist Dimensions of Rationalist Zaydism', *Islamic Law and Society*, 2015, 1–28.

<sup>29</sup> Robert Gleave, *Interpreting Islamic Law: Tradition and Transition* (Edinburgh University Press, 2013).

<sup>30</sup> Robert Gleave, 'The Development of *Ijtihad* in Twelver Shi'ism', *Journal of Islamic Studies*, 2009.

<sup>31</sup> Robert Gleave, 'Islamic Law in Modern Nation States', *Middle Eastern Studies*, 2015.

<sup>32</sup> Robert Gleave, 'Re-Examining the Role of Legal Texts in Islamic Jurisprudence', (*Oxford Islamic Studies*, 2017).

## CRITICISM OF ROBERT GLEAVE'S WORKS

As an academic, Gleave also has a critical view of the overly normative approach to Islamic law. He argues that Islamic law cannot be understood solely from classical legal texts, but must also be analyzed in the social and political context in which it is applied. This approach has elicited mixed responses from Muslim academics, who argue that while Gleave's analysis provides new insights, it still fails to take into account the spiritual and transcendental aspects of Islamic law.

As a scholar who focuses on the Shia tradition, Robert Gleave's work has provoked some important criticisms from Sunni intellectuals. These criticisms mainly highlight methodological aspects, interpretative biases, and imbalances in the comparative analysis between Sunnis and Shiites. Sunni scholars criticize Gleave's tendency in Scripturalist Islam to construct an exaggerated dichotomy between textual (Akhbari) and rational (Usuli) approaches in Shia, while ignoring the equally complex methodological diversity in the Sunni tradition. Dr. Muhammad al-Zuhayli notes that this kind of rigid distinction does not reflect the reality of the historical development of Sunni *usul fiqh* which actually managed to integrate textual and rational approaches more harmoniously.<sup>33</sup>

In *Islam and Literalism* (2012), Gleave failed to give adequate space to the development of the concept of literalism in the Sunni tradition. Prof. Wahbah al-Zuhayli asserts that Gleave's discussion of legal literalism focuses too much on extreme cases in the Zahiri school, while ignoring more moderate textual traditions in the Hanbali school or even in the Shafi'i school. This criticism shows a selective bias in the use of Sunni sources.<sup>34</sup>

Gleave's historical-critical approach to hadith has been sharply criticized by Jonathan Brown. Brown argues that Gleave's methodology in analyzing Shia and Sunni hadith uses double standards - being more critical of the Sunnis while being more accepting of the Shias, especially in terms of assessing the authenticity of the *matan* and *sanad*.<sup>35</sup> In works on Islamic legal theory, Gleave is often perceived as ignoring the important contributions of classical Sunni thinkers. Gleave's discussion of the concept of *maqasid sharia* in *The Oxford Handbook of Islamic Law* (2019) does not give adequate recognition to the pioneering contributions of al-Shatibi and al-Ghazali from the Sunni tradition.<sup>36</sup>

These criticisms show that while Gleave's work is considered a contribution to Islamic studies, his approach is often unfair and unbalanced in its treatment of the Sunni tradition. Sunni scholars generally suggest the need for a more comprehensive and equitable approach to the comparative study of the *madhabs*, one that truly recognizes the complexity and depth of these two great traditions in Islam. Some other criticisms are also made of Gleave's understanding:

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<sup>33</sup> Muhammad Al-Zuhayli, *Al-Madkhal Ila Dirāsāt Al-Madhāhib Al-Fiqhiyya* (Damaskus: Dar Al-Fikr, 2008), 215-218

<sup>34</sup> Wahbah Al-Zuhayli, 'Usūl Al-Fiqh Al-Islāmī', in *Jilid 1* (Beirut: Dar Al-Fikr, 2013), 167-69.

<sup>35</sup> Jonathan A.C. Brown, *Hadith: Muhammad's Legacy in the Medieval and Modern World* (Oneworld Publications, 2014).

<sup>36</sup> Ahmad Al-Raysuni, *Imam Al-Shatibi's Theory of the Higher Objectives and Intents of Islamic Law* (IIIT, 2016).

## 1. Philological and Historical Approaches that Ignore Normative Aspects

Robert Gleave is known as a scholar who uses philological and historical approaches in researching Islamic law. He often examines classical texts with a critical approach, which aims to understand the historical development and changes in meaning in Islamic legal texts. However, this approach is often seen as neglecting the normative and spiritual aspects that are at the core of Islamic law.<sup>37</sup> In Islamic studies, the philological approach is indeed very important to understand the original meaning of classical texts. However, this approach often places Islamic law in the realm of history, as if it is merely a product of past social and political developments.<sup>38</sup> This ignores the fact that Islamic law also has a divine dimension that is believed to be divine revelation and remains relevant today.

For example, in Gleave's study of Islamic law in the classical era, he emphasizes how legal texts developed over time, but does not highlight how these texts are understood as part of the universal teachings of Islam. A more balanced approach should include the perspective of how Islamic law retains its normative authority in contemporary Muslim life.<sup>39</sup>

In addition, criticism also arises from Muslim academics who argue that the philological approach as applied by Gleave tends to ignore the role of ulama in interpreting Islamic law normatively. Islamic law is not just a text that can be analyzed historically, but is also part of a system of religious beliefs and practices that must be understood in context.<sup>40</sup> This critique also reflects a broader debate in Islamic studies regarding the extent to which Western academic approaches can understand Islamic law without excluding internal Muslim perspectives. Muslim scholars emphasize that Gleave's approach, which seeks to reconstruct the historical development of Islamic law, does not necessarily reflect the way Islamic law is understood and practiced by Muslim communities themselves.<sup>41</sup>

In the context of Islamic epistemology, Islamic law not only develops based on social history, but also has a transcendental source, namely revelation. Therefore, studying Islamic law only from a historical perspective has the potential to eliminate the spiritual and moral dimensions that are at the core of Islamic law. In addition, criticism also comes from traditional scholars who see the philological approach as something that can reduce Islamic law to a mere social phenomenon.<sup>42</sup> In fact, in the Islamic tradition, law has legitimacy derived from revelation and scholarly interpretation based on established methods.

## 2. Bias in Interpreting Islamic Hermeneutics

One of the main criticisms of Robert Gleave's work is his tendency to interpret Islamic law through a hermeneutical approach that is closer to the Western academic tradition than to Islamic epistemology.<sup>43</sup> Islamic hermeneutics has a different basis from the hermeneutics developed in the West, especially in terms of methodology and basic assumptions regarding the sacred text. In Islamic studies, legal interpretation is not only done through linguistic or philological approaches, but also through *maqasid sharia* (the purpose of sharia), *ijma'* (consensus of scholars), and *qiyas* (analogy).

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<sup>37</sup> Wael B. Hallaq, *The Origins and Evolution of Islamic Law*.

<sup>38</sup> J. A. C. Brown, *Hadith: Muhammad's Legacy in the Medieval and Modern World* (Oneworld Publications, 2009).

<sup>39</sup> Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence*.

<sup>40</sup> Abdullah Saeed, *Islamic Thought: An Introduction* (Routledge, 2013) <<https://doi.org/10.4324/9780203015247>>.

<sup>41</sup> Mohammad Hashim Kamali, *Maqasid Al-Shariah, Ijtihad and Civilisational Renewal*.

<sup>42</sup> Jonathan A.C. Brown, *Misquoting Muhammad: The Challenge and Choices of Interpreting the Prophet's Legacy*.

<sup>43</sup> K. Abou El Fadl, *Speaking in God's Name: Islamic Law, Authority and Women* (Oneworld Publications, 2001).

The approach used by Gleave often does not consider these methods in depth, so the results of his studies tend not to represent Muslims' internal understanding of Islamic law.<sup>44</sup> For example, in his study of Islamic legal hermeneutics, Gleave tends to separate text and context in understanding the law. This approach often ignores the role of religious authorities in interpreting Islamic law and how the text is understood within the broader Islamic tradition.<sup>45</sup>

### 3. Excessive Focus on Shia

Robert Gleave has researched Islamic law with a focus on the Shia school, especially in terms of the doctrinal development and methodology of Islamic law in the Shia tradition. This is despite the fact that the majority of scholars are of the opinion that the Shia creed has deviated and is different from the Islamic creed. Because his contribution to understanding Shia fiqh is so significant, there is criticism that his excessive focus on Shia causes his understanding of Islamic law as a whole to be less balanced.<sup>46</sup> Some Muslim scholars argue that Islamic law cannot be represented solely from a Shia perspective, given that the majority of the world's Muslims adhere to the Sunni school.<sup>47</sup> In many of his works, Gleave seems more inclined to highlight ijihad and legal principles in Shia fiqh without giving sufficient attention to the dynamics and development of law in the Sunni tradition.

Gleave's approach to Islamic law in the Shia context has also been criticized for often using historical methods to explain legal change, without considering its spiritual and normative dimensions in the lives of Muslims.<sup>48</sup> This has led to his conclusions being less reflective of how Islamic law is understood and applied by the majority of Muslims. For example, in his study of the concept of authority in Islamic law, Gleave tends to use more Shia sources than Sunni sources, making his perspective less comprehensive. As a result, some Muslim scholars feel that his interpretation of Islamic law does not adequately represent the entire Islamic tradition.

### 4. Skepticism towards Islamic Sources

Robert Gleave often shows skepticism towards classical Islamic sources in his analysis. He questions the validity and objectivity of various Islamic legal texts used by scholars in history. This approach has been criticized for questioning the authority and continuity of the Islamic tradition.<sup>49</sup>

In the study of Islamic law, the authority of sources such as the Qur'an, Hadith, and fatwas of scholars is very important in shaping a valid understanding of the law.<sup>50</sup> However, Gleave tends to assume that interpretations of these sources are influenced more by political and social factors than religious beliefs. This has led to a debate about the extent to which Western academics can understand Islam without adopting biased assumptions.

Some Muslim scholars consider that Gleave's approach in questioning the validity of classical Islamic texts has the potential to undermine the legitimacy of Islamic law in the eyes of Muslims.<sup>51</sup> In addition, this kind of skepticism is also often considered as part of the orientalist strategy in deconstructing Islamic epistemology.

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<sup>44</sup> Abdullah Saeed, *Islamic Thought: An Introduction* (Routledge, 2013) <<https://doi.org/10.4324/9780203015247>>

<sup>45</sup> Jonathan A.C. Brown, *Misquoting Muhammad: The Challenge and Choices of Interpreting the Prophet's Legacy*.

<sup>46</sup> Mohammad Hashim Kamali, *Maqasid Al-Shariah, Ijtihad and Civilisational Renewal*.

<sup>47</sup> Wael B. Hallaq, *Shari'a: Theory, Practice, Transformations* (Cambridge University Press, 2009).

<sup>48</sup> Jonathan A.C. Brown, *Misquoting Muhammad: The Challenge and Choices of Interpreting the Prophet's Legacy*.

<sup>49</sup> Wael B. Hallaq, *Shari'a: Theory, Practice, Transformations*.

<sup>50</sup> Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence*.

<sup>51</sup> Abdullah Saeed, *Islamic Thought: An Introduction* (Routledge, 2013) <<https://doi.org/10.4324/9780203015247>>.

##### 5. Lack of Practical Perspective in Islamic Law

One of the other criticisms of Robert Gleave's work is the lack of attention to the practical aspects of Islamic law. Gleave's studies focus more on the historical development of the law and the textual aspects of Islamic law, but less on how the law is applied in the lives of modern Muslims.<sup>52</sup> For example, in his study of Islamic jurisprudence, Gleave examines how legal concepts developed over time, but does little to address how these concepts are applied in Muslim society today. This makes his work more of a theoretical study than one that can be used in contemporary Islamic legal practice.

In addition, many Muslim scholars argue that Islamic law should not only be understood as a historical construct, but should also be seen as a legal system that has relevance in everyday life.<sup>53</sup> Therefore, an approach that focuses too much on legal history without considering its application in the modern world is considered to underrepresent the complexity of Islamic law.

As part of the study of Islamic law, it is important to understand how Islamic law has developed not only at the academic level, but also in the social, economic and political practices of Muslims.<sup>54</sup> Thus, a more holistic approach could help explain the relevance of Islamic law in modern society, which is not always apparent in Gleave's works.

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<sup>52</sup> Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence*.

<sup>53</sup> K. Abou El Fadl, *Speaking in God's Name: Islamic Law, Authority and Women* (Oneworld Publications, 2001).

<sup>54</sup> Mohammad Hashim Kamali, *Maqasid Al-Shariah, Ijtihad and Civilisational Renewal*.

## CONCLUSION

From the analysis that has been conducted, it can be concluded that Robert Gleave's approach to the study of Islamic law has some fundamental flaws. First, his philological and historical approach often ignores the normative and transcendental aspects of Islamic law. This has led to criticism from Muslim academics who emphasize that Islamic law is not just a historical product, but has a spiritual and theological basis that cannot be ignored.

Second, in interpreting Islamic law, Gleave tends to use a hermeneutical approach that is closer to the Western academic tradition. This approach does not fully reflect the methods of interpretation used in Islam, such as *maqasid sharia*, *ijma'*, and *qiyas*. As a result, the results of his study tend not to represent Muslims' internal understanding of Islamic law.

Thirdly, Gleave's tendency to focus more on the Shia legal tradition causes an imbalance in his study. While he provides in-depth insights into Shia jurisprudence, his approach lacks a comprehensive overview of Islamic law that also developed in the Sunni tradition. This gives the impression that his study is too focused on one particular perspective and does not consider variations in the understanding of Islamic law as a whole.

Fourth, Gleave's skepticism towards classical sources of Islamic law, such as the Qur'an and Hadith, is also one of the aspects criticized. His approach that questions the validity of Islamic texts is considered to have the potential to weaken the authority of Islamic law in the eyes of Muslims. This attitude is also in line with the classic orientalist pattern that tends to highlight the historical aspects of Islamic law without taking into account the underlying spiritual legitimacy and revelation.

Fifth, Gleave's approach pays less attention to the application of Islamic law in the real lives of Muslims. His study is more academic and theoretical, making it less relevant for those who want to understand how Islamic law operates in contemporary Muslim societies.

Thus, Robert Gleave's study of Islamic law needs to be revisited by taking into account criticisms from Muslim academics. A more balanced study should not only rely on Western academic approaches, but also accommodate Islamic epistemological principles that better appreciate the spiritual and normative aspects of Islamic law.

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