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Philosophical Anthropology in Ḥanafī-Māturīdī Thought: Moral Universalism and Rights Discourse

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Abstract

This paper argues that the Ḥanafī-Māturīdī tradition developed a universal philosophical anthropology in which the human being, by virtue of possessing *dhimma* and bearing the divine trust (*amāna*), becomes a primordial subject of rights and obligations prior to legal accountability, reciprocity, social contract, and confessional differentiation. Rather than approaching Islamic human rights discourse through the lens of compatibility with modern liberal frameworks, the paper reconstructs the philosophical and juridical conditions that made universalized *ḥuqūq* language internally necessary within the classical Ḥanafī-Māturīdī tradition. Drawing on the endogenous Ḥanafī commitment to pre-revelatory rational obligation — grounded in al-Māturīdī's tripartite epistemology and the convergence of *kalām*, *uṣūl al-dīn*, and *uṣūl al-fiqh* — the paper argues that reason was understood as a universal moral faculty capable of discerning obligations embedded within the created order itself, prior to any prophetic disclosure. The paper then turns to Abū Zayd al-Dabbūsī's *Taqwīm al-Adilla*, where *dhimma* is articulated as a primordial covenantal and juridical capacity grounding rights and obligations in the ontological status of the human being as bearer of the divine trust. Particular attention is given to al-Dabbūsī's *wujūb/adā'* distinction — the separation of obligation in the *dhimma* from capacity of performance — which grounds universal rights-holding independently of functional capacity, social membership, or confessional belonging. The paper further distinguishes between natural *ḥuqūq* (pre-revelatory, grounded in the rational intelligibility of creation) and revealed *ḥuqūq* (post-revelatory, grounded in Sharī'a), and argues that *ḥuqūq* discourse is scripturally prior to philosophically systematized: the fuqahā' were not importing Greek categories but systematizing what prophetic tradition had already initiated. The central thesis is that this philosophical anthropology made universalized rights discourse not merely possible but philosophically necessary — a tradition that grounds all normativity in post-revelatory divine command does not readily generate universal claim-rights grounded in shared humanity; one that grounds normativity in the rational constitution of the human being as such is structurally oriented toward doing so.

Keywords: Ḥanafī-Māturīdī; *ḥuqūq*; *dhimma*; philosophical anthropology; natural law; Islamic legal theory; moral universalism; Abū Zayd al-Dabbūsī

What Kind of Philosophy Generates Rights Discourse?

Modern scholarship on Islam and human rights has often revolved around questions of compatibility, conflict, reform, or historical antecedents.¹ What such discussions frequently leave unexplored is the deeper philosophical question: **what kind of philosophical anthropology generates a universalized rights discourse in the first place?** This paper addresses that question through the Ḥanafī-Māturīdī tradition, and proposes that the answer reveals something not only about Islamic intellectual history but about the structural conditions of rights discourse as such.

The central historiographical puzzle is this: why did early Ḥanafī jurists increasingly designate the normative categories of Islamic law — the *ahkām* — in terms of *ḥuqūq*? This shift was not merely terminological. It reflected a deeper transformation in how moral goods, obligations, and human relations were juridically conceptualized. Answering the question requires tracing it back behind jurisprudence to theology, and behind theology to philosophical anthropology.

The argument of this paper is that it is precisely because the Ḥanafī-Māturīdī tradition located moral intelligibility in the rational constitution of the human being, prior to revelation, prior to confessional belonging, and prior to social contract, that a universalized discourse of *ḥuqūq* became not merely possible but philosophically necessary. A tradition that grounds all normativity in post-revelatory divine command does not ground universal claim-rights in the same rational-anthropological manner, because there is no pre-revelatory moral ground on which to stand. The Ḥanafī-Māturīdī philosophical anthropology, by contrast, makes universalized rights-bearing a more direct consequence of its deepest commitments about the human being as rational, morally accountable agent.

Based on the analyzed framework provided by the Ḥanafī-Māturīdī, this paper further distinguishes between **natural *ḥuqūq*** — rights whose cause is the rational intelligibility of creation itself, existing prior to revelation — and **revealed *ḥuqūq*** — rights whose cause is revealed law, which expands and clarifies the natural framework into a fuller theological anthropology. The argument proceeds in four stages: the Ḥanafī-Māturīdī philosophical anthropology and its conception of pre-revelatory normativity; al-Dabbūsī's articulation of *dhimma* as primordial juridical personhood; the *wujūb/adā'* distinction and its implications for universal rights-holding; and the genealogy of *ḥuqūq* from scriptural origins through juridical systematization.

Philosophical Anthropology and Pre-Revelatory Normativity

The Endogenous Ḥanafī Framework

The Ḥanafī-Māturīdī commitment to a philosophical anthropology grounded in rational moral agency was not foreign borrowing nor developed defensively against heterodox pressures. It was endogenous to early Ḥanafī thought — traceable to, what can be viewed as, rationalist maxims attributed to Abū Ḥanīfa himself, and systematized by al-Māturīdī into a coherent theological and epistemological framework.

¹On this, see my other research: Arnold Yasin Mol, 'Islamic Human Rights Discourse and Hermeneutics of Continuity,' *Journal of Islamic Ethics* 3, no. 1-2 (2019): 180–206, doi: <https://doi.org/10.1163/24685542-12340031>; Arnold Yasin Mol, 'Human Rights,' in *Routledge Handbook of Islamic Ethics*, ed. Mohammed Ghaly (Abingdon: Routledge, forthcoming).

Among the most significant of these maxims is the transmitted position on pre-revelatory obligation:²

If God had not sent a messenger, it would still have been obligatory upon creation to know Him by their intellects (law lam yab'ath Allāhu rasūlan la-wajaba 'alā al-khalq ma'rifatuhu bi-'uqūlihim).

Every cognitively mature human being, Muslim or not, reached by prophetic revelation or not, is accountable for the knowledge the created world makes available to them. The existence and unity of a Creator is rationally accessible; failing to reason toward it is a culpable epistemic failure, not an innocent oversight. The *āyāt*, the signs of creation, constitute a standing, pre-revelatory obligation upon rational beings.

The cosmological argument underlying this was elaborated by Abū Ishāq al-Ṣaffār al-Bukhārī (d. 534/1139): every rationally mature person is obligated to know the primary forms of knowledge, of which knowledge of the Creator is foremost. Things do not exist randomly, they must have been brought forth, as a book needs a writer. That cause cannot be like created things, and this provides criteria for the Creator's attributes, establishing the right (*ḥaqq*) of gratitude for being brought from non-existence into existence.³

Josef van Ess sees Abū Ḥanīfa's position as a type of natural religion 'which comes about through knowledge based on reason or through innate concepts.'⁴ Kevin Reinhart similarly notes that this position effectively demands of all humanity 'acknowledgment of their anonymous Islam.'⁵

The Three-Way Distinction: Māturīdī Between Mu'tazila and Ash'arī

The later Ḥanafī-Māturīdī positioned themselves between their two main interlocutors, whereby they had to defend themselves against the surface resemblance to the Mu'tazilī position as this had led to persistent mischaracterization, and because the difference from the Ash'arī position is structurally a core element which makes universalized rights discourse philosophically possible: the Mu'tazila hold that reason independently obligates (*al-'aql mūjib*), reason itself is the ontological source of moral obligation. The Ash'arī hold that pre-revelatory reason does not generate binding moral obligation in the same sense, normativity flows primarily from post-revelatory divine command. The Ḥanafī-Māturīdī occupy a third position: God is the ultimate obligator (*al-mūjib*), but reason is the genuine indicator (*dalīl*) of His obligations, real and binding prior to revelation, even though their source is divine rather than rational.

²Abū Bakr al-Rāzī, *Sharḥ Bad' al-Āmāli* (Beirut: Dār al-Kutub al-'Ilmiyya, 2004), 305. The chain runs from Ibn Samā'a to Abū Yūsuf to Abū Ḥanīfa. Its corollary in the *Bad' al-Āmāli*: 'A sane person is not excused to cite ignorance as a reason for not knowing the Creator of all things'; the juridical consequence (al-Rāzī, 305): one who fails to know one's Creator before death deserves eternal punishment. Cf. Abū Ishāq Ibrāhīm al-Ṣaffār al-Bukhārī, *Talkhīṣ al-Adilla li-Qawā'id al-Tawḥīd* (Cairo: al-Maktaba al-Azhariyya li-l-Turāth, 2016), 201–203. On the endogenous character of this Ḥanafī position and its six rationalist maxims, see Arnold Yasin Mol, 'Ḥanafism as Endogenous Philosophy,' in *Classical Arabic Philosophy*, ed. Josh Hayes (London: Bloomsbury, forthcoming).

³Al-Ṣaffār, *Talkhīṣ al-Adilla*, 200–201. The cosmological argument follows al-Māturīdī, *Kitāb al-Tawḥīd*, ed. Bekir Topaloğlu and Muhammed Aruçi (Istanbul: İSAM, 2019), 97. For al-Māturīdī's philosophical anthropology in detail, see Arnold Yasin Mol, 'Abū Manṣūr al-Māturīdī (d. 333/944): Multiplex Cosmology and the Ethics of Belief,' in *Handbook of Islamic Philosophy*, ed. Terence Lovat (Singapore: Springer Nature, 2026), 475–496. Josef van Ess, *Theology and Society in the Second and Third Centuries of the Hijra* (Leiden: Brill, 2017), 235–236.

⁴A. Kevin Reinhart, *Before Revelation: The Boundaries of Muslim Moral Thought* (Albany: SUNY Press, 1995), 54.

‘Alā’ al-Dīn al-Uṣmandī (d. 552/1157) states this with precision:⁶

Our companions said that it is indeed possible for the intellect to reach such judgments, to the extent that if God Most High had left the world without messengers, faith (īmān) in Him would still have been obligatory upon people, and disbelief (kufr) in Him forbidden... And this is not, as some claim, that the intellect independently obligates (al-‘aql mūjib) in the way they [the Mu‘tazila] assert. Rather, the one who obligates (al-mūjib) is God Most High, while the intellect is only a means of indication (dalīl).

The Ottoman Ḥanafī al-Qūnawī (d. 1195/1781), defending this position against al-Bayḍāwī’s use of Q.17:15 {*We do not punish until we send a messenger*} to deny pre-revelatory obligation, argues that ‘the messenger’ in the verse is universal – meaning reason itself – and invokes a separate statement of Abū Ḥanīfa that whoever does not believe in the existence and oneness of God will be in the Fire forever, ‘as this is a fact known by reason.’⁷

Al-Māturīdī’s Tripartite Epistemology

Al-Māturīdī systematizes the Ḥanafī philosophical anthropology into a coherent epistemology. In his commentary on Q.17:15 in the *Tā’wīlāt al-Qur’ān*, he articulates three sources of knowledge:⁸

Some things are known through the outward senses self-evidently (bi-zāhir al-ḥawāss bi-l-baḍīha). And some are understood and known through contemplation and reasoning (bi-l-ta’ammul wa-l-naẓar). And some are not known except by teaching and exhortation (illā bi-l-ta’līm wa-l-tanbīh).

The first two sources are universally available, independent of prophetic revelation. The third is what revelation uniquely supplies. Revelation does not create obligation from nothing – it clarifies, removes ambiguity, and supplies knowledge that reason cannot reach alone, without replacing the philosophical anthropology it presupposes.

Al-Māturīdī is equally precise on the distinction between reason and nature as moral faculties: ‘the human being is created on the basis of both nature and reason whereby reason regards things as beautiful (*ḥasan*) or ugly (*qabīḥ*) – this is different from what nature desires or is repelled by.’ Reason and nature are not the same faculty. It is reason, operating on the created order, that founds the moral world prior to any scriptural directive. Humans are ‘specially granted the management of created beings and the responsibility that this entails’ and ‘created in need, with God combining in them the elements that enable them to know their needs and provide for their fulfillment.’⁹

⁶‘Alā’ al-Dīn al-Uṣmandī, *Lubāb al-Kalām* (Istanbul: İSAM, 2006), 54–55.

⁷‘Iṣām al-Dīn Ismā‘īl al-Qūnawī, *Ḥāshiyat al-Qūnawī ‘alā Tafsīr al-Bayḍāwī* (Beirut: Dār al-Kutub al-‘Ilmiyya, 2001), 11:463. Al-Qūnawī invokes a distinct statement of Abū Ḥanīfa on the eschatological consequence of failing to know God – different from the maxim transmitted by al-Rāzī (fn. 2). For the distinction between these two transmitted statements, see Mol, ‘Ḥanafism as Endogenous Philosophy.’

⁸Abū Maṣṣūr al-Māturīdī, *Tā’wīlāt al-Qur’ān*, ed. Bekir Topaloğlu (Istanbul: Dār al-Mīzān, 2006), 8:243. Translation by the author. On the tripartite epistemology and its later crystallization, see ‘*Aqā’id al-Nasafī*, in Aḥmad Farīd al-Mazīdī (ed.), *Shurūḥ wa-Ḥawāshī al-‘Aqā’id al-Nasafīyya* (Beirut: Dār al-Kutub al-‘Ilmiyya, 2013), 1:87–95.

⁹Abū Maṣṣūr al-Māturīdī, *Kitāb al-Tawḥīd*, ed. Bekir Topaloğlu and Muhammed Aruçi (Istanbul: İSAM, 2019), 88; tr. Tahir Uluç, *Kitāb al-Tawḥīd: The Book of Monotheism* (Istanbul: Ibn Haldun Press, 2025), 80. Cf. al-Māturīdī, *Tā’wīlāt al-Qur’ān*, ed. Topaloğlu (Istanbul: Dār al-Mīzān, 2006), 8:243. The quotation on humanity being ‘specially granted the management of created beings’ is from *Kitāb al-Tawḥīd*, 85; tr. 80.

But the Māturīdī position should not be read as similar to Mu‘tazilī moral realism. Māturīdī thinkers show a more sophisticated application wherein *ḥusn* and *qabīḥ* are explained through a tripartite structure, strikingly similar to al-Māturīdī’s tripartite epistemology, of naturally good, rationally good, and legally good — thereby affirming rational moral discernment without making goodness an objective accident inhering in actions independently of God.¹⁰ God remains the ultimate source of normativity, but His wise ordering of creation is sufficiently intelligible for reason to recognize certain ethical norms. As Felicitas Opwis observes on Ḥanafī-Māturīdī philosophy, ‘the wise harmonious ordering of the created world leads to stable ethical norms’ that are ‘accessible to rational understanding,’¹¹ a commitment al-Dabbūsī shares and that directly underlies his account of *dhimma* and *ḥuqūq*.

Revelation enters as completion and specification of what reason already initiates, as it, in the words of al-Māturīdī, ‘encourages reflection, calls to think and to use the intellect’ and ‘does not invalidate what reason requires’, supplying decisive knowledge on issues that unaided reason could not reliably reach.

***Dhimma*: The Juridical Consequence of the Philosophical Anthropology**

Al-Dabbūsī’s Ontological *Dhimma*

The juridical translation of this philosophical anthropology appears most explicitly in al-Dabbūsī’s *Taqwīm al-Adilla*. Al-Dabbūsī’s legal theory rests, as Opwis has argued, on meta-ethical commitments to divine wisdom (*ḥikma*) and confidence in human rationality that align him closely with al-Māturīdī: God’s creation is ordered according to wisdom, and the human intellect can discern traces of this wisdom in the created world. His account of *dhimma* and *ḥuqūq* should therefore be read not as an isolated juristic construction but as the juridical articulation of Māturīdī theological anthropology. He opens his discussion of legal capacity with a statement that is simple in form but foundational in implication:¹²

The human being, as he is created, is created possessing *dhimma* (*wa-l-ādamī kamā yukhlaqu yukhlaqu wa-lahu dhimma*).

Dhimma here does not merely denote political protection or procedural legal capacity. It denotes a primordial juridical and moral personhood inhering within the human being as such — a covenantal status that precedes all social relations, all legal address, and all performative capacity. Al-Dabbūsī connects this directly to the Quranic *amāna* of Q.33:72:¹³

¹⁰Hisashi Obuchi, ‘‘Alā’ al-Dīn al-Samarqandī’s Non-Realist Approach to Good (Ḥasan) and Bad (Qabīḥ),’ *Journal of Islamic Ethics* 8 (2024): 71–74. The similarity to al-Māturīdī’s tripartite epistemology is striking and need further analysis.

¹¹Felicitas Opwis, *Ethics and Analogy (Qiyās) in 5th/11th-Century Islamic Legal Theory* (Leiden: Brill, 2025), chap. 4, esp. 28–29.

¹²Abū Zayd al-Dabbūsī, *Taqwīm al-Adilla fī Uṣūl al-Fiqh* (Beirut: al-Maktaba al-‘Aṣriyya, 2006), 417. Arabic: *wa-l-ādamī kamā yukhlaqu yukhlaqu wa-lahu dhimma*. For the lexicographical definition of *dhimma* as the ‘capacity to be the subject of relations of *ḥuqūq* — of acquiring claims over others and being the subject of claims in turn, of having rights and obligations,’ see al-Jurjānī, *Kitāb al-Ta’rīfāt* (Beirut: Dār al-Nafā’is, 2012), 177; quoted in Sophia Vasalou, *Moral Agents and Their Deserts* (Princeton: Princeton University Press, 2008), 47. Cf. Nūḥ ‘Alī Salmān al-Qaḍāt, *Ibarā’u al-Dhimmat min al-Ḥuqūq al-‘Ibād* (Amman: Dār al-Faṭḥ, 2009), 31.

¹³Q. 33:72 {Truly We offered the Trust (al-amānat) unto the heavens and the earth and the mountains, but they refused to bear it, and we were wary — yet man bore it; truly he was ignorant, a wrongdoer.} The ‘trust’ was

God Most High, when He created the human being to carry His Trust (amāna), honored him with intellect and dhimma, such that through them he became fit for rights being due to him and obligations imposed upon him. Thus he acquired the right of inviolability (ʿiṣma), freedom (ḥurriyya), and ownership (mālikiyya).¹⁴

Three juridical dignities — inviolability, freedom, ownership — are presented not as social conventions or political grants but as direct consequences of humanity's participation in the divine trust. They are grounded in *dhimma*, and *dhimma* is grounded in the human being's rational constitution as trust-bearer.

Al-Sarakhsī (d. 490/1097) confirms the universality of this status:¹⁵

As God the Exalted created humanity to carry out His trusts, He dignified them with reason and rights-bearing (dhimma)... Hence, this right of freedom, sanctity, and property are granted to a person at the time they are born. Those capable of discernment and those not capable of discernment are equal in this regard.

Al-Dabbūsī makes the universality structural: 'the human being is created possessing this covenant and *dhimma*, and is therefore not created except as one fit for the obligations of the Sharīʿa upon him — just as he is not created except as free and owner of his rights.'¹⁶

Recep Şentürk has argued that a significant strand within the Ḥanafī legal tradition grounds fundamental protections in mere humanity (*ādamiyyah/insāniyya*) rather than exclusively in confessional membership — a 'universalistic' paradigm associated particularly with Abū Ḥanīfa, in which 'basic rights are due to all human beings by virtue of their humanity.'¹⁷ Within this paradigm, inviolability (ʿiṣma) is grounded in humanity itself rather than political membership, closely paralleling al-Dabbūsī's claim that the human being is created already possessing *dhimma* prior to any positive legal enactment. Jeroen Vlug further observes that al-Dabbūsī describes inviolability, freedom, and ownership as 'honoring gifts' (*karāmāt*) naturally bestowed to enable the human being to fulfill his earthly responsibilities — situating these juridical dignities within a theological anthropology in which the human being is entrusted with divine agency, and

understood in the dominant exegesis as 'fulfilling duties (*farāʾid*)'. See: al-Māturīdī, *Tāʾwīlāt al-Qurʾān*, 11:393–394. Al-Dabbūsī's exegesis whereby he changes duties into *ḥuqūq* is an innovative reading which I have not traced to any scholar before him. But it did become the dominant exegesis later on, as for example the 19th century exegete Maḥmūd b. ʿAbd Allāh al-Alūsī (d. 1270/1854) says that the verse is 'warning [mankind] that the observance of rights (*ḥuqūq marʿiyya*) has been deposited by God Almighty upon the morally obligated (*al-mukallaʿin*), He entrusted them with them, and made it obligatory upon them, receiving it with good obedience and compliance, and command them to observe it, preserve it, and fulfill it without infraction to any of its rights.' Maḥmūd al-Alūsī, *Rūḥ al-Maʿānī fī Taʾsīr al-Qurʾān al-ʿAẓīm wa-l-Sabʿ al-Mathānī* (Cairo: Dār al-Ḥadīth, 2005), 21:364–365.

¹⁴Al-Dabbūsī, *Taqwīm*, 417–418. Arabic: *fa-lammā khalaqa Allāhu taʿālā al-insān li-ḥaml amānatihī akramahu bi-l-ʿaql wa-l-dhimma ḥattā šāra bihā ahlān li-wujūb al-ḥuqūq lahu wa-ʿalayhi fa-thabata lahu ḥaqq al-ʿiṣma wa-l-ḥurriyya wa-l-mālikiyya*.

¹⁵Abū Bakr al-Sarakhsī, *Uṣūl al-Sarakhsī* (Beirut: Dār al-Kutub al-ʿIlmiyya, 2015), 2:334. Al-Sarakhsī's formulation closely parallels al-Dabbūsī because, as Bedir has shown, the *Taqwīm al-Adilla* served as a methodological template for al-Sarakhsī's *Uṣūl*; see Murteza Bedir, *The Early Development of Ḥanafī Uṣūl al-Fiqh* (PhD diss., University of Manchester, 1999), 10–13.

¹⁶Al-Dabbūsī, *Taqwīm*, 419: *wa-l-ādamiyya lā yukhlaqu illā wa-lahu ḥādhā al-ʿahd wa-l-dhimma fa-lā yukhlaqu illā wa-huwa ahlun li-wujūb ḥuqūq al-sharʿ ʿalayhi*.

¹⁷Recep Şentürk, 'Ādamiyyah and ʿIsmah: The Contested Relationship between Humanity and Human Rights in Classical Islamic Law,' *İslām Araştırmaları Dergisi* 8 (2002): 39–69, esp. 42–50. See also Şentürk, 'Inviolability of the Other in Islam between Universalism and Communalism,' in *Sociology of Rights* (Emory University Law School, 2002), 31–37.

confirming that these rights are grounded in shared humanity (*ādamiyya*) rather than exclusively in communal affiliation.¹⁸

Rights-Holders and Duty-Bearers: The Structural Distinction

From this foundation, the Ḥanafī tradition draws a distinction of major philosophical significance between two categories of legal personhood:¹⁹

Rights-holders (*ahliyyat al-wujūb*): every human without exception — children, the mentally impaired, the disabled, the unborn, the dying. Rights are established in their *dhimma* from birth, regardless of any capacity to perform obligations.

Duty-bearers (*ahliyyat al-adā*): mature, sane adults who have the capacity and therefore the obligation to fulfill and protect the rights of the first category.

Human worth precedes and is independent of functional capacity. A child who cannot yet reason, a person whose reason is impaired, an unborn fetus; all are full rights-holders. Their inability to enforce their own rights, or to reciprocate obligations, in no way diminishes their claim on others. Duty-bearers exist precisely to fulfill and protect what rights-holders cannot claim for themselves. And as these rights-holders cannot claim these rights themselves, God becomes their representative to provide theological weight on duty-bearers to enforce them.

Al-Dabbūsī reinforces this technically: obligation in the *dhimma* is valid without the subject's choice, and its validity requires neither the subject's capacity nor their knowledge of it.²⁰ The human being does not possess *dhimma* because they are capable of performance. They possess *dhimma* because they are human; performance obligations are calibrated by capacity as a secondary matter, not a condition of rights-holding. As al-Dabbūsī puts it, 'the child who lacks intellect differs from the rational person only regarding the obligation of performing what has become binding in his *dhimma* — not regarding the *dhimma* itself.

The Ḥanafī tradition articulated an early and influential response to what contemporary disability ethics and philosophy of rights are still working through: by grounding fundamental claim-rights in ontology rather than reciprocal agency alone, it developed what we might now call the *status view* of rights — humans simply have rights in virtue of being human — as a classical juridical commitment grounded in a specific philosophical anthropology, not a modern invention.

And the human being stands at the center of this scheme as the primary moral agent: dignified with reason, uniquely burdened with the trust (*amāna*) of the heavens and earth (Q.33:72), and charged with responsibility for the fulfillment of rights across creation. It is precisely this trust that

¹⁸Jeroen Vlug, 'The Islamic Pursuit of Human Dignity: Revisiting Fundamental Rights Theories in Islamic Law and Legal Theory,' *Cross-cultural Human Rights Review* 2, no. 1 (2020): 2–4. Cf. Şenturk, 'Ādamiyyah and 'Ismah,' 42–45.

¹⁹Al-Dabbūsī, *Taqwīm*, 417–419. On *ahliyyat al-wujūb* and *ahliyyat al-adā* more broadly, see al-Qaḍāt, *Ibarā'u al-Dhimmat min al-Ḥuqūq al-'Ibād*, 24–30; Imran Ahsan Khan Nyazee, *Islamic Legal Maxims (Qawā'id Fiqhiyya)* (Islamabad: Center for Excellence in Research, 2016), 221–233. The Ḥanafī tradition further distinguishes complete and incomplete levels within each category. Incomplete rights-holders (*ahliyyat al-wujūb al-nāqisha*) refers to the unborn and the dead, who hold rights in inheritance and the sanctity of their bodily existence. Incomplete duty-bearers (*ahliyyat al-adā al-nāqisha*) includes children (*ṣabī*), persons with mental health problems, the elderly with memory issues, and the chronically ill. See al-Qaḍāt, *Ibarā'u al-Dhimmat*, 24–25, 29–30; al-Jurjānī, *Kiṭāb al-Ta'īlāt*, 177; Aḥmad Ḥasan, *The Principles of Islamic Jurisprudence* (New Delhi: Adam Publishers, 2012), 296–327.

²⁰Al-Dabbūsī, *Taqwīm*, 417–419: *wa-inna al-ādami min ahl al-wujūb 'alayhi bi-l-dhimma fa-maḥall al-wujūb al-dhimma*. Al-Dabbūsī states explicitly: 'As for obligation in the *dhimma*, it is valid without our choice. Therefore its validity does not require our capacity, nor our knowledge of it' (p. 418).

makes the human being not merely a bearer of rights but the moral agent through whom the rights of all creation – divine, human, and natural – find their fulfillment or their failure.

Obligation, Performance, and Natural *Huqūq*

Wujūb and *Adāʾ*: The Technical Distinction

Al-Dabbūsī's distinction between *wujūb* (obligation in the *dhinma*) and *adāʾ* (performance of the obligation) is the technical mechanism that protects the universality of rights-holding. He defines them precisely: *wujūb* is 'the ruling of God imposing something upon us through its cause,' and *adāʾ* is 'the act of the servant through which the obligation is discharged.' The two are categorically distinct, as the analogy of a tailor illustrates: 'the contract obligates the act in the *dhinma*, while the sewing itself constitutes performance.'²¹

Obligations are established through causes (*asbāb*) embedded within reality itself, not through the command or address (*khṭāb*) alone. Al-Dabbūsī lists them explicitly: *zakāt* through ownership of the *niṣāb*, fasting through Ramaḍān, prayers through their times, and – centrally – faith through the signs (*āyāt*) indicating God Most High. Divine command thereafter requests performance of obligations already established through their causal ground; address (*khṭāb*) is not the source of obligation but its call to execution.²²

Murteza Bedir has shown that al-Dabbūsī's *Taqwīm* represents a decisive stage in the systematization of Ḥanafī legal theory, precisely in this separation of underlying obligation from the obligation of performance.²³ The distinction, however, did not emerge by simple deduction from Māturīdī theology. As Aron Zysow cautions, the relationship between theology and legal theory in the Ḥanafī tradition is associative rather than strictly deductive, the same distinction arose within contested debates over the theological identity of Ḥanafī *uṣūl*.²⁴ The convergence between al-Dabbūsī's juristic framework and al-Māturīdī's philosophical anthropology is therefore a genuinely achieved intellectual synthesis, not a mechanical implication.

The Four Rights of God and the Non-Suspendable Obligation

Al-Dabbūsī's most philosophically significant contribution appears in his taxonomy of the four rights of God upon the human being and the criterion he uses to determine which can be suspended and which cannot:²⁵

The rights of God over the human being are four: (a) reflection upon the signs indicating God (*al-naẓar fī al-āyāt al-dālla ʿalā Allāh*), (b) then belief according to what the proofs require (*al-*

²¹ Al-Dabbūsī, *Taqwīm*, 87–90. The tailor analogy: p. 88.

²² Al-Dabbūsī, *Taqwīm*, 88–89.

²³ On the place of this distinction within the development of Ḥanafī *uṣūl*, see Murteza Bedir, *The Early Development of Ḥanafī Uṣūl al-Fiqh* (PhD diss., University of Manchester, 1999), 10–13; and Murteza Bedir, 'Reason and Revelation: Abū Zayd al-Dabbūsī on Rational Proofs,' *Islamic Studies* 43, no. 2 (2004): 227–229.

²⁴ Aron Zysow, 'Muʿtazilism and Māturīdism in Ḥanafī Legal Theory,' in *Studies in Islamic Legal Theory*, ed. Bernard G. Weiss (Leiden: Brill, 2002), 235–265. See also Opwis' discussion on this point in her introduction: Opwis, *Ethics and Analogy (Qiyās) in 5th/11th-Century Islamic Legal Theory*, 1–30.

²⁵ Al-Dabbūsī, *Taqwīm*, 421: *huqūq Allāh taʿālā ʿalā al-insān arbaʿa: al-naẓar fī al-āyāt al-dālla ʿalā Allāh taʿālā, thumma al-ʿiṭqād ʿalā mā tūjibuhu al-dalāl il, thumma al-ʿibādāt, thumma al-ʿajziya*. He provides a full exposition on all four, pp. 421–427.

i'tiqād 'alā mā tūjibuhu al-dalā'il), (c) then acts of worship (*al-'ibādāt*), (d) then penalties (*al-ajziya*).

Ritual obligations (c) and penalties (d) may be suspended for the child, they are subject to excuse (*'udhr*) and could in principle be otherwise. But the obligations of rational inquiry (a) and foundational belief (b) cannot be suspended at the level of *wujūb*, even for children. The criterion: obligations that 'do not admit of non-existence as a right of God' cannot be suspended.²⁶

The reason is structurally coherent. The *āyāt* indicating the world's origination are permanently available to rational agents, the created order is a standing address to reason, not contingent on prophetic disclosure. Ritual obligations, by contrast, are revealed institutions that could in principle be otherwise. And al-Dabbūsī explicitly places 'faith through the signs indicating God' in the same *asbāb*-list as *zakāt*, prayer, and fasting, establishing that the pre-revelatory obligation of faith is juridically parallel in structure to the post-revelatory obligation of worship. The difference is that the former admits of no suspension, because its cause, creation itself, was never otherwise. People are directly born into what points towards the cause of existence, and therefore technically should not be in need for another indicative sign, like revelation, to appear.

Natural *Ḥuqūq* and Revealed *Ḥuqūq*

Al-Dabbūsī's juridical formulation is the jurisprudential expression of the same philosophical anthropology that al-Uṣmandī articulates theologically and al-Māturīdī grounds epistemologically. The cause of the obligation to know God are the *āyāt* in the created order, simultaneously a claim in *kalām* (the world's origination indicates a Creator), in creedal *uṣūl al-dīn* (knowledge of God is a rational obligation binding prior to revelation), and in *uṣūl al-fiqh* (the *āyāt* constitute the legal cause, *sabab*, of this obligation). The Ḥanafī-Māturīdī tradition is among the most articulated premodern Islamic syntheses in which all three disciplines converge on this point coherently.²⁷ A partial parallel exists in the Mu'tazilī tradition, which similarly connects rational theology, ethical objectivism, and legal theory, but with a structurally different result: because the Mu'tazila make reason the source of obligation (*al-'aql mūjib*) rather than its indicator, their juridical framework rests on a different anthropological foundation; one that does not produce the covenantal grounding of rights in *dhiḥma* and *amāna* that is distinctive to the Ḥanafī-Māturīdī synthesis.

This convergence allows us to distinguish two categories of *ḥuqūq* within the Ḥanafī-Māturīdī framework:

Natural *ḥuqūq* (pre-revelatory): *ḥuqūq* whose cause is the rational intelligibility of creation itself. These include the right of God to be acknowledged as Creator — *natural religion* — grounding the obligation of rational inquiry and foundational belief; and fundamental human inviolabilities that reason recognizes as binding prohibitions: injustice, theft, unwarranted harm — *natural rights*. Al-Dabbūsī himself supports this in the *Taqwīm*: in his chapters on what reason establishes, proscribes, and prohibits, he identifies several subjects as violations of wise ends which are rationally prohibited on grounds of benefit and harm, prior to and confirmed by revelation — establishing that reason discerns these prohibitions from the nature of created things themselves, independently of revealed address. These include: injustice (*ẓulm*), ignorance (*jahh*), futility

²⁶ Al-Dabbūsī, *Taqwīm*, 421–427. The criterion: obligations that *lā yaḥtamil an lā yakūn fī nafsīhi ḥaqqan li-Llāh* do not admit of non-existence as a right of God and cannot be suspended even for children at the level of *wujūb*.

²⁷ This convergence is documented across: al-Uṣmandī, *Lubāb al-Kalām*, 54–55; al-Ṣaffār, *Talkhīṣ al-Adilla*, 201–203; al-Dabbūsī, *Taqwīm*, 421. For the broader Ḥanafī-Māturīdī framework, see Mol, 'Abū Maṣṣūr al-Māturīdī,' 479–484; Mol, 'Ḥanafism as Endogenous Philosophy.'

(*‘abath*), recklessness (*safah*), belief in idols, denial of the creator, denial of the resurrection and recompense, fornication, waste of food and wealth, gambling, and foul and impure acts.²⁸

Revealed *ḥuqūq* (post-revelatory): *ḥuqūq* whose cause is revealed law — specific forms of worship, ritual, legal penalty, and particularized moral obligation that revelation establishes and that reason alone cannot fully determine. These presuppose the natural *ḥuqūq* and extend them into a broader theological anthropology with particularized religious rights and duties.²⁹

The structural distinctiveness of this framework becomes visible in comparison with Thomistic natural law theory as displayed in the work of John Finnis. The comparison reveals both convergence and a fundamental difference. Finnis grounds rights in objective moral goods and practical reasonableness rather than in pure individual autonomy or social convention.³⁰ The Ḥanafī-Māturīdī tradition reaches a formally similar conclusion, rights are grounded in the objective rational structure of human existence, but by an entirely different route: the source of normativity is theistic and covenantal rather than immanent, God obligates while reason indicates, and the rights-vocabulary is scripturally generated. Al-Dabbūsī’s principle that the human being is created already possessing *dhimma* thereby transforms human existence into a juridical-moral category in which certain *ḥuqūq* emerge from humanity as such prior to revelation, while revelation subsequently expands and specifies these into a fuller theological anthropology.

The Genealogy of *Ḥuqūq*: From Goods to Rights

Ḥuqūq as Scriptural Before Philosophical

The question how Islamic rights discourse emerged cannot be explained by assuming it either as a naturally emerging juristic language or through foreign encounters as Roman law or Greek philosophical categories. This substantially inverts the actual order of development. The scriptural genealogy traced here confirms the philosophical anthropology argument of the preceding sections: the fuqahā’ reached for *ḥuqūq* language rather than for example Greek philosophical vocabulary because they were systematizing what scripture had already initiated, and their philosophical anthropology gave them the framework to do so universally.

The primary semantic and normative vocabulary of *ḥuqūq* emerged scripturally before becoming philosophically systematized. The Qur’ān employs *ḥaqq* across a wide semantic range: truth, reality, due, claim, obligation. The prophetic traditions then deploy *ḥuqūq* extensively and technically: the right of God upon His servants; the right of servants upon God; rights of the poor, animals, body, neighbors, children. The prophetic tradition extends rights even to the

²⁸ Al-Dabbūsī, *Taqwīm*, 455–459. Cf. Bedir, 'Reason and Revelation,' 232–234. See also its earlier argumentation in: Abū Bakr al-Jaṣṣāṣ, *Uṣūl al-Jaṣṣāṣ al-musanimmā al-Fuṣūl fī al-Uṣūl* (Beirut: Dār al-Kutub al-‘Ilmiyya, 2010), 2:99–105. Al-Jaṣṣāṣ affirms the rational discernibility of prohibitions such as injustice, unwarranted harm, murder and usurpation, but does not develop the systematic framework of *dhimma*, *amāna*, and *ādami* that al-Dabbūsī constructs. On Jaṣṣāṣ, see: Reinhart, *Before Revelation*, 43–56.

²⁹ Anver M. Emon, 'Ḥuqūq Allāh and Ḥuqūq al-‘Ibād: A Legal Heuristic for a Natural Rights Scheme,' *Islamic Law and Society* 13, no. 3 (2006): 326–328. Arnold Yasin Mol, 'Human Rights,' in *Routledge Handbook of Islamic Ethics*, ed. Mohammed Ghaly (Abingdon: Routledge, forthcoming).

³⁰ John Finnis, *Natural Law and Natural Rights*, 2nd ed. (Oxford: Oxford University Press, 2011), 198–226. On the structural comparison between Thomistic natural law and Islamic legal theory, see Anver M. Emon, *Natural Law and Natural Rights in Islamic Law* (Cambridge: Cambridge University Press, 2010), 1–30.

animal world: 'Give people their rights (*al-ḥuqūq*). Even the hornless sheep will take retaliation on the horned.³¹

The movement of *ḥuqūq* language followed a three-stage sequence. It originated in scripture, Qur'ān and prophetic tradition, where it was already technically operative across a wide semantic and juridical range. From there it entered the *furū' al-fiqh*, the substantive legal literature, where Ḥanafī jurists deployed *ḥuqūq* as a working juridical category across applied rulings. Only from this combined scriptural-*furū'* base did *ḥuqūq* language enter *uṣūl al-fiqh* as a theoretical category, and the *Taqwīm al-Adilla* is itself evidence of this third stage. Al-Dabbūsī for example cites a ruling from al-Shaybānī's *Kiāb al-Istihṣān*, a *furū'* work, as the evidential occasion for his *uṣūl* principle that a solitary report (*khābar al-wāḥid*) is not a proof (*ḥujja*) in *ḥuqūq al-nās*, neither to establish them nor to remove them.³²

scripture (*nuṣūṣ*) → substantive law (*furū'*) → legal theory (*uṣūl*)

What the Ḥanafī jurists did was systematize this scriptural rights-language into a philosophical and juridical framework.³³ It was not a foreign framework which was filled with Islamic content, but a development of what scripture had already initiated. This explains why the *falsafa* tradition, which committed themselves to Greek philosophical categories, applied a different moral language of goods (*khayrāt*), virtues (*faḍā'il*), and flourishing (*sa'āda*), whereas the fuqahā' increasingly reformulated moral and social order through the language of *ḥaqq/ḥuqūq*, because the primary driver of *ḥuqūq* systematization was scriptural before being philosophical.

The Tiered Scheme: From Universal to Particular

The synthesis that emerged from scriptural foundation, juridical systematization, and the philosophical anthropology discussed above produced a rights-framework which developed into an elaborate tiered scheme of rights embraced and promulgated by all other schools:³⁴

Meta-rights: *Ḥaqq Allāh khālīṣa*, Divine personal rights (worship, belief) – the rights of God as Creator, representing His moral purposes for creation.

Macro-rights: *Ḥaqq al-ʿāmm*, Divine representative rights of the general public, the weak, animals, and the environment – rights which God holds representatively because their beneficiaries cannot claim them directly.

Meso-rights: Human general rights – rights of Muslims, non-Muslim citizens (*dhimmi*), travelers, foreigners.

³¹ A. J. Wensinck, *al-Mu'jam al-Mulharis li-ʿAlfāz al-Ḥadīth al-Nabawī* (Leiden: Brill, 1936), 1:484–487. Muslim b. al-Ḥajjāj al-Naysābūrī, *Ṣaḥīḥ Muslim* (Beirut: Dār Iḥyā' al-Turāth al-ʿArabī, 1990), 1:58; Mullā 'Alī al-Qārī, *Mirqāt al-Mafāṭīḥ Sharḥ Mishkāt al-Maṣābīḥ* (Beirut: Dār al-Fikr, 2002), 8:3202.

³² The origins, rational and framework behind the *ḥaqq/ḥuqūq* language within scripture and early *furū'* deserves a fuller analysis, which is beyond the scope of this paper. Al-Dabbūsī, *Taqwīm*, 174. See also Bedir's analysis of al-Dabbūsī's system of *ḥuqūq*, *aḥkām*, *furū'* and *khābar al-wāḥid*: Bedir, *The Early Development of Ḥanafī Uṣūl al-Fiqh*, 132–135.

³³ And from here the *ḥuqūq* language entered *kalām* and *tafsīr* and other Islamic sciences. For examples on this, see: Arnold Yasin Mol, "Divine respite in the Ottoman tafsīr tradition: reconciling exegetical approaches to Q.11:117," in: Boyalık, M.T.; Abacı, H. (Eds.) *Osmanlı'da İlm-i Tefsīr* (Istanbul: ISAR, 2019), 539–592.

³⁴ For this development, and this scheme in particular, see: Arnold Yasin Mol, 'Human Rights,' in *Routledge Handbook of Islamic Ethics*, figure 1 and table 1. From a Ḥanafī-Māturīdī perspective, the baseline established by *dhimma* – every human being is a rights-holder from birth – stands prior to all differentiations within the scheme.

Micro-rights: Human private rights — rights of spouses, parents, children, neighbors, servants.

This scheme is, in Recep Şentürk's term, *multiplex* — involving material, spiritual, and divine dimensions simultaneously — rather than the unidimensional scheme that characterizes most modern rights discourse. Al-Sarakhsī confirms that the universal category established by *dhinma* is philosophically prior: rights of inviolability, freedom, and ownership are 'granted to a person at the time they are born,' with those capable of discernment and those not equal in this regard.³⁵ The particular differentiations within the tiered scheme are built on top of this universal foundation, not in its place.

What distinguished the Islamic development from Roman predecessors was precisely this: Roman law dealt in particular rights — civic rights, property rights, rights of free persons — and did not articulate universalized claim-rights in the same ontological-juridical form, grounded in a primordial human capacity independent of civic or confessional status. The Ḥanafī tradition's elaboration of such a universal category was driven by the internal requirements of its philosophical anthropology.

Conclusion: An Alternative Metaphysical Grammar

The significance of the Ḥanafī-Māturīdī tradition for the history of rights discourse lies not merely in its historical earliness, nor in its anticipating modern frameworks.³⁶ It lies in the distinctive metaphysical grammar it developed: a grammar in which rights are grounded in a philosophical anthropology of rational moral agency, ontological legal personhood, and the human being's status as bearer of the divine trust. It is this kind of philosophical anthropology which generates a universalized rights discourse.

Three moves are decisive. **First:** the endogenous Ḥanafī commitment to pre-revelatory rational normativity makes universalized rights-bearing a more direct philosophical consequence of its deepest commitments. If all humans are morally intelligible beings prior to revelation, their moral status is less readily confined to confessional belonging. **Second:** al-Dabbūsī's juridical articulation of *dhinma* as primordial covenantal personhood grounds the universal in precise technical terms. The *wujūb/adā'* distinction ensures that incapacity of performance does not collapse into absence of rights — an alternative to both the Kantian autonomy-based account, which excludes non-autonomous persons, and the contractarian account, which requires reciprocity as a condition of rights-bearing. **Third:** the distinction between natural *ḥuqūq* (rationally discoverable prior to revelation, grounded in the intelligibility of creation) and revealed *ḥuqūq* (post-revelatory, grounded in Sharī'a) shows that rights discourse did not wait on revelation to begin. Certain rights are established by the intelligibility of creation itself; revelation expands and clarifies these into a fuller theological anthropology.

Contrasting this with the Roman genealogy of *ius* helps to understand the novelty of the framework. Roman *ius* gradually evolved from objective justice into subjective rights through a long historical process running from the jurists of the classical period through medieval natural law to early modern rights theory.³⁷ The Ḥanafī discourse of *ḥuqūq*, by contrast, emerged first

³⁵ Al-Sarakhsī, *Uṣūl*, 2:334.

³⁶ Which are still important, as Rudolph Peters states: 'Islam promotes or enjoins these positively valued concepts to the same extent or even more than "Western culture" or Christianity and that it has done so for a much longer period.' Ruud Peters, 'Islamic Law and Human Rights: A Contribution to an Ongoing Debate,' *Islam and Christian-Muslim Relations* 10, no. 1 (1999): 5.

³⁷ Finnis, *Natural Law and Natural Rights*, 205–210. On the Roman genealogy of *ius* from objective right to subjective claim, see Brian Tierney, *The Idea of Natural Rights* (Atlanta: Scholars Press, 1997), 13–42.

from scriptural notions of truth, obligation, and rightful due, already fully technical in the prophetic tradition, before becoming philosophically systematized within *uṣūl al-fiqh* and *kalām*. Yet both traditions converge on a structurally significant assumption: rights emerge from an objective moral order grounded in human nature and rationality, not merely from social convention, political grant, or contractual agreement. This convergence was achieved by entirely different routes, which is itself significant for the history of rights discourse. A convergence coming out of the axiology of theism, combined with explicit rights discourse in scripture, and a dominant juridical culture next to theological and philosophical cultures.

The paper has presented the convergence between Ḥanafī-Māturīdī thinkers synchronically, as a coherent philosophical and juridical system. But this convergence was achieved over time — across the 3rd/9th to 6th/12th centuries — and a full diachronic mapping of the development of *ḥuqūq* discourse across Islamic thought remains to be undertaken.³⁸ What this paper has established is the philosophical anthropological framework that made such a development possible and, within the Ḥanafī-Māturīdī tradition, necessary. The question for contemporary discourse is not whether this grammar is compatible with modern human rights. It is whether modern human rights discourse is sufficiently equipped to think through the problems; the moral status of non-autonomous persons, the grounding of rights beyond contractual reciprocity, the integration of virtue ethics and legal obligation; that the Ḥanafī-Māturīdī tradition already worked through with considerable sophistication.

³⁸ A point which I have emphasized in my other research as well: Arnold Yasin Mol, ‘Human Rights,’ in Routledge Handbook of Islamic Ethics, fn. 50: ‘A complete survey of the occurrence of rights discourse in Islamic thought is surely due to correctly assess its evolution.’