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## **Islam and disability : perspectives in islamic theology and jurisprudence**

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## Chapter One: Introduction

### 1.1 United Nations Organization: Global Interest in People with Disabilities

According to the latest reports of the United Nations Organization, people with disabilities are the world's largest minority. They are 650 million people representing about 10% of the global population on earth. According to the World Health Organization (WHO), this figure is increasing through population growth, medical advances and the ageing process. In countries with life expectancies over 70 years, individuals spend on average about 8 years, or 11.5% of their life span, living with disabilities. The UN Development Programme (UNDP) stated that 80% of persons with disabilities live in developing countries.<sup>1</sup> The UN Special Rapporteur declared in 2000, "In all countries, in all types of living conditions, the consequences of disability interfere in the lives of disabled persons to a degree which is not at all accepted."<sup>2</sup> These facts have been one of the decisive factors that spurred an increasing international interest in improving the conditions of people with disabilities.

As the main body representing countries all over the world, the activities of the United Nations Organization reflects this international interest. On December 20, 1971, the UN General Assembly proclaimed the Declaration on the Rights of the Mentally Retarded Persons calling for national and international action to ensure that this declaration will be used as a common basis and frame of reference for the protection of the rights of those people.<sup>3</sup> This was followed by the Declaration on the Rights of the Disabled People proclaimed by the UN General Assembly on December 9, 1975.<sup>4</sup> After almost one year, precisely on December 16, 1976, the UN General Assembly adopted the resolution no. 31/123 by which it proclaimed the year 1981 the International Year of Disabled Persons.<sup>5</sup> The period 1983-1992 was declared by the UN as the decade of people with disabilities.<sup>6</sup> On December 20, 1993, the Standard Rules on the Equalisation of Opportunities for Persons with Disabilities were adopted by the United Nations General Assembly in its resolution 48/96.<sup>7</sup> The latest development in this regard was the Convention on the Rights of Persons with Disabilities adopted on December 13, 2006 by the United Nations. The Optional Protocol of this convention was opened for signature by all states at the United Nations Headquarters in New York on March 30, 2007.<sup>8</sup>

This increasing concern for disability-related issues and the rights of people with disabilities has also evoked interest in the position of religion as part of

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<sup>1</sup> Convention on the Rights of Persons with Disabilities (2006).

<sup>2</sup> Robinson, Mary (1998), p. 1.

<sup>3</sup> Declaration on the Rights of Mentally Retarded Persons (1971).

<sup>4</sup> Declaration on the Rights of Disabled Persons (1975).

<sup>5</sup> International Year of Disabled Persons (1981).

<sup>6</sup> Robinson, Mary (1998), p. 1.

<sup>7</sup> Ibid.

<sup>8</sup> Convention on the Rights of Persons with Disabilities and Optional Protocol (2007).

people's cultures vis-a-vis the phenomenon of disability. Many of the UN documents on people with disabilities made reference to this dimension, especially the Standard Rules on the Equalisation of Opportunities for Persons with Disabilities on which the 12<sup>th</sup> rule was dedicated to religion.<sup>9</sup> In this framework, religious studies on people with disabilities gained an increasing interest. Before delving into Islam in particular, some remarks on religious studies in general are in order.

## 1.2 Religion and Disabilities

There is a multi-dimensional relation between disability and religion. Broadly speaking religion plays an important role in the lives of millions of people worldwide. Eighty percent of the world's population identify as adherents of one of the major or minor world religious traditions.<sup>10</sup> Like others in societies around the world, people with disabilities have been directly or indirectly influenced by religion throughout history.<sup>11</sup> Both physical and mental healings have been an integral part of religion throughout the history of humanity.<sup>12</sup> Despite such a relation between religion and disability, literature on the impact of religious beliefs or practises on people with disabilities, however, was sparsely distributed across the fields of studies in health, ageing and disability.<sup>13</sup>

Since the publication of Osler's article in the *British Medical Journal* of 1910,<sup>14</sup> studies of religion and health have continued steadily over the decades.<sup>15</sup> Of all studies in the area of religion and health, there were only few studies on religion, religious activities, prayer and health in the population of persons with disabilities and especially intellectual disability.<sup>16</sup> Since the 1950s, a number of investigators have examined the role of religion in the lives of parents and caregivers of people with disabilities. They have provided consistent evidence that religious orientation plays an important role as a coping strategy in the lives of those people.<sup>17</sup> In her *The Psychology of Disability*,<sup>18</sup> C.L. Vash was one of the few writers who referred to spirituality in

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<sup>9</sup> *Standard Rules on the Equalisation of Opportunities for Persons with Disabilities* (1993).

<sup>10</sup> Selway, Deborah & Adrian F. Ashman (1998), p. 429, quoting from Bernstein, E., D. Calhoun, et al (eds.) (1995).

<sup>11</sup> Selway, Deborah & Adrian F. Ashman (1998), p. 429.

<sup>12</sup> Issa, Ihsan al- (2000), p. 3, quoting from Alexander, F.G. & S.T. Selsnick (1966); Kilpatrick, S. et al (1999), p. 389.

<sup>13</sup> Selway, Deborah & Adrian F. Ashman (1998), p. 429; Issa, Ihsan al- (2000), p. 3.

<sup>14</sup> See Osler, W. (1910), pp. 1470-1472.

<sup>15</sup> Selway, Deborah & Adrian F. Ashman (1998), p. 434.

<sup>16</sup> Ibid; Merrick, Joav, Mohammed Morad & Udi Levy (2001), p. 115.

<sup>17</sup> Selway, Deborah & Adrian F. Ashman (1998), p. 433. As for examples of such studies, see Zuk, G.H. (1959), pp. 139-147; Zuk, G. H. et al (1961), pp. 525-540. Zuk, G.H. (1962), pp. 405-408; Gangy, R. et al (1977), pp. 15-21. Schmitt, R. (1978), pp. 80-87.

<sup>18</sup> See Vash, C.L. (1981), pp. 18 & 19. For an investigation of early reviews on religion and mental health in particular, see Hofmann, Hans (1961), esp. pp. 273-329; Schumaker, J.F. (1992), esp. 11-18; Koenig, H.G. (1992), pp. 177-188; Issa, Ihsan al- (2000), esp. pp. 4-6. As for religion and psychology in general the situation is much better. From the turn of the century until the present day pastors, professors, psychiatrists, psychologists, social scientists and others have produced a formidable literature exploring the relationship between religion and psychology, see Stokes,

relation to disability. She noted that specific religious beliefs may or may not be helpful in defining disability positively. For example, a belief that disability was a form of divine punishment did not aid individuals, whereas a belief that disability was a part of God's purpose (or interpreted in another way to imbue the experience with meaning and purpose) could prove helpful.<sup>19</sup> Another study dealt specifically with people with disabilities and the effect of religion on their health and well-being.<sup>20</sup> In 1999, a Dutch study entitled *Zorg in Kleur* (Care in Colour) handled the issue of people with mental disabilities of Surinamese and Antillean origins living in the Netherlands. The main aim of this study was to give information on the cultural backgrounds of those people counting belief as one of the cultural aspects. Focusing on belief as an important cultural aspect, the third chapter of this study gave an overall simple information on Christianity, Hinduism, Islam, Brua and Winti and the standpoint of these beliefs towards mental disability.<sup>21</sup>

Spirituality appeared lately with increasing frequency in the research literature, and a paradigm involving mind-body-spirit interaction is emerging. The relationship of spirituality to disability and illness is at the centre of a growing body of knowledge.<sup>22</sup> However, observers still opine that much work remains to be done in understanding the religious and spiritual dimensions of disability and rehabilitation. Specifically, more research is needed that examines not only the association of religious and spiritual involvement but also the ways people deploy their religion or spirituality to cope with the challenges of disability and rehabilitation.<sup>23</sup> More specific techniques from the religious counselling literature may also prove useful to those unfamiliar with these techniques.<sup>24</sup>

Another form of response to the dire need of more concern to the issue of religion and disability was holding a number of congresses for the promotion of this issue. For instance, a series of conferences entitled, "That All May Worship: An Interfaith Welcome for People with Disabilities" have been organised by the National Organisation on Disability (NOD) since 1992.<sup>25</sup> The

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Allison G. (1978), pp. 273-278; Loomis, Earl A. (1963), pp. 1748-1759. Due to the importance of this issue, *Journal of Religion and Health* has dedicated its quarter issue, spring 2003 for investigating, in varying degrees, the question of the relationship between psychology and religion in the context of human health, see Leeming, David (2003), pp. 3 & 4. For an Islamic perspective in this issue, see Haque, Amber (1998), pp. 97-116.

<sup>19</sup> Selway, Deborah & Adrian F. Ashman (1998), p. 435.

<sup>20</sup> Do Rozario, L. (1994).

<sup>21</sup> Weel, Saskia van der (1999), p. 12.

<sup>22</sup> See Kaye, J. & Senthil Kumar Raghavan (2002), pp. 231-242. The same holds true to the relation between religion and mental health, see Rogers, Steven A. et al (2002), pp. 167-178; Haque, Amber (2004), p. 45.

<sup>23</sup> Kilpatrick, S. et al (1999), pp. 399 & 400.

<sup>24</sup> Worthington, E.L. et al (1996), pp. 448-487; Kilpatrick, S. et al (1999), p. 400.

<sup>25</sup> See <http://www.sacredplaces.org> (accessed July 15, 2007). In the same year, the American Association on Mental Retardation (AAMR) drafted the revised definition of mental retardation which was the first termination and classification system in developmental disabilities to include the importance of spiritual supports. See Gaventra, William C. (2001), pp. 29 & 30-32.

conferences brought together people of every faith to identify and remove physical and spiritual barriers, and to promote dialogue between people with disabilities and religious leaders.<sup>26</sup> In May 1995, a conference entitled, “The Role of Spirituality and Religiousness in Rehabilitation and the Lives of Persons with Disabilities” was conducted in Bethesda, Maryland, United States.<sup>27</sup> This meeting brought together academic researchers from a diverse range of disciplines together with clergy and people with disabilities who were researchers, clergy or advocates. The goals of the meeting were to review the work in the field, provide an opportunity for dialogue among a variety of disciplines, attain a greater conceptual clarity of the different dimensions involved and develop a research agenda.<sup>28</sup> The conference came up with a number of recommendations among which were the encouragement of collaboration among persons from a variety of faiths and cultural groups and also the adoption of a vigorous approach to access a broad range of literature relevant to the spirituality and religiousness of people with disabilities. Such reviews should examine the content, implicit methodological assumptions and limitations to knowledge contained in this literature.<sup>29</sup> In the same trend, the International Association for the Scientific Study of Intellectual Disabilities (IASSID) held a conference in 2000 whose theme was “From Theory to Practice”<sup>30</sup> focusing on the importance of spirituality and religion in supports and services for people with intellectual disabilities. The aim was to have a series of international voices that could represent practitioners and researchers from major faith traditions and different parts of the world.<sup>31</sup> Papers presented in this conference were published by *Journal of Religion, Disability & Health (JRDPH)*, vol. 5, no. 2/3 and simultaneously in a separate book.<sup>32</sup>

Noteworthy in this regard is that a number of modern studies focused on studying people with disabilities within the perspective of one specific religion. Concerning Judaism for instance, Tzvi Marx<sup>33</sup> submitted his doctoral thesis in 1993 to Utrecht University, the Netherlands on *Halakha & Handicap: Jewish Law and Ethics on Disability*.<sup>34</sup> A reedited and abridged form of this thesis was published in 2002 under the title *Disability in Jewish Law*.<sup>35</sup> In 1998, Judith Z.

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<sup>26</sup> <http://www.wfn.org/2002/09/msg00084.html> (accessed July 15, 2007).

<sup>27</sup> See Underwood-Gordon, L., et al (1997), p. 255.

<sup>28</sup> Ibid.

<sup>29</sup> Ibid, pp. 256 & 257.

<sup>30</sup> Gaventra, William C. & David L. Coulter (eds.) (2001), p. 31.

<sup>31</sup> Ibid, p. xv. However, this conference lacked papers about Eastern or African Religions. See Gaventra, William C. & David L. Coulter (eds.) (2001), p. xvi.

<sup>32</sup> See Gaventra, William C. & David L. Coulter (eds.) (2001).

<sup>33</sup> He is the director of the Israel-Diaspora Center of Education at the Shalom Hartman Institute of Jerusalem and coordinator of its center for religious pluralism. For more information on his curriculum vitae, see Marx, Tzvi C. (1992-3), p. 945.

<sup>34</sup> Marx, Tzvi C. (1992-3).

<sup>35</sup> Marx, Tzvi C. (2002). Tzvi Marx referred to previous sources conducted in this field such as Joseph Blau’s “The Defective in Jewish Law” (1916) and Carl Astor’s Who Makes People Different (1985). See Marx, Tzvi C. (2002), p. I, note I.

Abrams<sup>36</sup> brought out her *Judaism and Disability: Portrayals in Ancient Texts from the Tanach through the Bavli*.<sup>37</sup> Christianity witnessed also a number of crucial studies studying the status of people with disabilities within Christian perspectives.<sup>38</sup> In 1990 Simon Timothy Horne submitted his doctoral thesis to the University of Birmingham on *Injury and Blessing: A Challenge to Current Readings of Biblical Discourse concerning Impairment*.<sup>39</sup> One of the important writers in this field was Nancy Eiesland, an associate professor of sociology of religion, Candler School of Theology, who also spoke out of her own experience with a congenital disability. In 1994, she published *The Disabled God: Toward a Liberatory Theology of Disability*.<sup>40</sup> Four years later, the same author co-edited *Human Disability and the Service of God: Reassessing Religious Practice*.<sup>41</sup> Lately in 2002, Jennie Weiss Block, the non-disabled person who has been an active advocate for two decades in the disability rights movement,<sup>42</sup> published her normative study *The Copious Hosting: A Theology of Access for People with Disabilities*.<sup>43</sup>

### 1.3 Islam

As member states of the UN, Islamic countries were involved in many of the activities promoting interest in people with disabilities such as the Standard Rules on the Equalisation of Opportunities for Persons with Disabilities endorsed by the UN in 1993<sup>44</sup> and the Convention on the Rights of People

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<sup>36</sup> She is the founder and director of *Maqom*, a School for Adult Talmud Study, 1995-present. For more information on her curriculum vitae, see <http://www.maqom.com/cv.pdf>

<sup>37</sup> The author produced other publications some of which are somehow related to this topic, see for instance, Abrams, Judith (1990); Abrams, Judith & David L. Freeman (1999); Abrams, Judith (2003). For a complete list of all Abram's published books and articles, see [http://www.cu.edu/ColemanInstitute/archives/webfile\\_year\\_1996\\_Present.pdf](http://www.cu.edu/ColemanInstitute/archives/webfile_year_1996_Present.pdf)

<sup>38</sup> I hereby submit my deep thanks especially to Nancy Eiesland an associate Professor of Sociology of Religion, Candler School of Theology, Emron University and Miss Jacqueline Kool, the Dutch theologian for their fruitful help. For those interested in further publications on the issue of disability in Christianity, for books see Bishop, M.E., (ed.), (1995); Govig, S. (1989); Kutz-Mellem, Sharon (1998); Clare, Eli, (1999); Pailin, D., (1992); Fontaine, C. (1995); Okhuijsen, G. and C. van Opzeeland, (1992); Wilke, H.H., (1980). As for articles, see Blair, W.D., (2003), pp. 69-80; Byzek, J., (2001), pp. 29-48; Creamer, D. (2003), pp. 57-68; Selway, Deborah & Adrian F. Ashman, (1998), pp. 429-439; Treloar, L.L., (2002), pp. 594-603; Kaye J. & S.K. Raghavan, (2002), pp. 231-242; Meakes, E., et al (2002), pp. 37-46; Sorensen, Marshall E. et al. (2003), pp. 57-76.

<sup>39</sup> Horne, Simon Timothy (1999). I hereby submit my thanks to Tzvi Marx for drawing my attention to this source.

<sup>40</sup> Eiesland, Nancy (1994).

<sup>41</sup> See Eiesland, Nancy & Don E. Saliers (eds.) (1998). In the same year, Eiesland published also an article on disabled women in particular. See Eiesland, Nancy (1998).

<sup>42</sup> See Richards, Penny (2003), <http://www.theotherside.org/resources/disabilities/>

<sup>43</sup> See Block, Jennie Weiss (2002).

<sup>44</sup> For the contributions of a number of Islamic countries in the last questionnaire done by WHO to control the implantation of the Standard Rules, see *The UN Standard Rules on the Equalization of Opportunities for Persons with Disability: Main Report*, World Health Organisation, 2001, pp. 92 & 93, 115-117, 120-122, 159-160, 164 & 165, 166 & 167, 178-180, 193 & 194, 213 & 214 & 233-235.

with Disabilities adopted by the UN in 2006.<sup>45</sup> Islamic countries' interest in this front-page issue was also crystallized in a big number of conferences some of which were organized in cooperation with UN or WHO. For instance, the year 1981 witnessed the Kuwait Regional Conference on the Disabled held in April and issued the *Arab Declaration on Work with the Disabled*.<sup>46</sup>

Some of these conferences focused on the importance of studying the viewpoint of Islam concerning disability-related issues. For instance, during the period September 29-October 2, 1997, the tenth Juristic Medical Symposium entitled *Al-Mushāwara al-buldāniyya ḥawl tashrī'āt al-ṣiḥḥa al-nafsiyya bimā fī dhālik al-sharī'a al-islāmiyya* (Regional Conference on Legislations of Psychological Health in Different Religious Codes of Law including the Islamic Law) was held in Kuwait. This symposium was organised by the Islamic Organisation for Medical Sciences in cooperation with the World Health Organisation, East Mediterranean Regional Office (WHO, EMRO). Eleven papers submitted to this symposium tackled the topic of disability from an Islamic perspective.<sup>47</sup> A parallel conference was held during the period October 23-26, 2000 in Riyadh, Saudi Arabia. The conference was organised by the Disabled Children's Association and Prince Salman Center for Disability Research. In this conference, more than 200 papers were submitted. The conference adopted important resolutions among which was the encouragement of research on perspectives within Islam on people with disabilities.<sup>48</sup> The last example to mention in this respect is the international conference entitled "Rehabilitation of the Disabled and Care for the Elderly in the Islamic World: Strategies for the 21<sup>st</sup> Century." This conference was held by the Islamic World Council on Disability and Rehabilitation during the period

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<sup>45</sup> The list of signatories included a number of Islamic countries such as Algeria, Egypt, Turkey, Morocco, Sudan and Yemen. For a full list of the signatory states and regional integration organizations, see <http://www.un.org/esa/socdev/enable/conventionsign.htm> (accessed on May 13, 2005).

<sup>46</sup> See <http://cirrie.buffalo.edu/bibliography/MEast3.html>. For other similar conferences, see <http://cirrie.buffalo.edu/bibliography/MEast2.html>; [http://www.disabilityworld.org/05-06\\_01/news/riconf.shtml](http://www.disabilityworld.org/05-06_01/news/riconf.shtml); [http://www.deakin.edu.au/tedca/ncet/issues\\_and\\_events/calendar.html](http://www.deakin.edu.au/tedca/ncet/issues_and_events/calendar.html); <http://www.worldenable.net/beirut2003/journal28may.htm>; <http://www.worldenable.net/beirut2003/arabicdefault.asp>; [http://www.dpi.org/en/events/world\\_summit/06-23-03\\_summit2004.htm](http://www.dpi.org/en/events/world_summit/06-23-03_summit2004.htm) (all accessed on May 13, 2005).

<sup>47</sup> See 'Awaḍī, 'Abd al-Raḥmān 'Abd Allāh al- & Aḥmad Rajā'ī al-Jundī (eds.) (1422-2001), vol. 1, pp. 345-372, 395-443, vol. 2, pp. 481-517, 523-538, 601-636, 725-735, 734-775 & 777-833. I hereby submit his due thanks to Dr. Ahmad al-Jundī, the general secretary assistant of the Islamic Organisation for Medical Sciences for providing him with a copy of this publication because it was not available for the public.

<sup>48</sup> An article published by *Ain-al-Yaqeen* magazine on November 3, 2003, an electronic version is available on <http://www.ain-al-yaqeen.com/issues/20001103/feat7en.htm> (accessed on May 13, 2005). For An Arabic version of the same article, see <http://www.ain-al-yaqeen.com/issues/20001103/feat7ar.htm> (accessed on May 13, 2005). All what I could get was a general report on the activities and summaries of the papers submitted in the conference, see *Barnāmaj wa al-Mulakhkhasāt al-ʿilmiyya, al-: al-mu'tamar al-dawlī al-thānī li al-i'āqa wa al-ta'hīl* (2000).

February 10-12, 2001 in Khartoum, Republic of Sudan.<sup>49</sup> Among the topics of this conference were the rights of disabled persons from the viewpoint of the Islamic Sharī'a such as medical treatment, rehabilitation, work, training, exemption from tax and custom duty payment, equality, participation, social integration and equal opportunities.<sup>50</sup>

Undoubtedly all these activities participated in evoking considerable interest among modern scholars of Islam as well. More than one scholar expressed his call to promote research studying the status of people with disabilities in Islam such as the two Saudi scholars 'Abd Allāh b. Jibrīn (b. 1352/1933)<sup>51</sup> and 'Abd al-Muḥsin b. Nāṣir Āl 'Abīkān (the head of the advisory body for legal aspects which participated in drafting the legal code of disability in the Kingdom of Saudi Arabia).<sup>52</sup> This holds true to the extent that some scholars called for developing a special branch of Islamic jurisprudence focusing exclusively on people with disabilities under the title *Fiqh al-i'āqa wa al-mu'awwaqīn* "fiqh of disability and people with disabilities". This term – as far as I am aware – was coined first by the Shī'ite scholar Muḥammad Shams al-Dīn in a paper presented to the tenth Juristic Medical Symposium held by the Islamic Organisation for Medical Sciences (IOMS) and World Health Organisation (WHO) in 1997, Kuwait. This call was met with approval for instance by the well-known scholar, Yūsuf al-Qaraḍāwī.<sup>53</sup>

### 1.3.1 Modern Studies on the Position of People with Disabilities in the Islamic Normative Sources

The online-published bibliography by the British researcher M. Miles might be the sole instrument, so far, which lists modern studies relevant to the thematic field of "Islam and disability". The version published on July 24, 2002, entitled *Disability in the Middle East*, listed 1060 items covering the historical period between Antiquity and 2002.<sup>54</sup> An updated version will appear under the title *Islam, Disability & Deafness: A Modern and Historical Bibliography, with some Annotation*. In this new version, Miles reduced the items to about 140 in total, adding a number of the new studies that appeared after 2002.<sup>55</sup> The majority of the studies included in the bibliography were sociological, anthropological or historical in nature.

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<sup>49</sup> [http://www.deakin.edu.au/tedca/ncet/issues\\_and\\_events/calendar.html](http://www.deakin.edu.au/tedca/ncet/issues_and_events/calendar.html) (accessed on May 13, 2005).

<sup>50</sup> <http://leb.net/pipermail/lexington-net/2000-August/002302.html> (accessed on May 13, 2005). Unfortunately, I could not get access to any of the papers presented in this conference.

<sup>51</sup> On him, see <http://www.ibn-jebreen.com/book.php?cat=0&book=75&toc=4747> (accessed on August 7, 2007).

<sup>52</sup> See Shāyī', 'Abd al-Ilāh b. 'Uthmān b. 'Abd Allāh (1420/1999), pp. 5& 6.

<sup>53</sup> 'Awadī, 'Abd al-Rahmān 'Abd Allāh al- & Ahmad Rajā'ī al-Jundī (eds.) (1422-2001), vol. 1, pp. 276 & 301.

<sup>54</sup> The bibliography was available at <http://www.socsci.kun.nl/ped/whp/histeduc/mmiles/mesabib1.html>; <http://cirie.buffalo.edu/bibliography/MEasttoc.html>. However, none of these links is active anymore.

<sup>55</sup> I hereby submit my thanks to M. Miles who provided me with this new version he finished on April 10, 2007.



Below, I will review thirteen studies whose writers can be considered as my forerunners in this field. I restricted myself to the books<sup>56</sup> that I could access and which provided information relevant to either Islamic theology or Islamic law.<sup>57</sup> Four of these studies have been cited in the new version of the aforementioned bibliography.<sup>58</sup> With the exception of the earliest study, conducted in 1965, all studies mentioned below were written after 1981, the International Year of the Disabled as declared by the UN. Apparently, the concern given by the UN to the subject also stirred considerable interest in the Islamic milieu. Some of the authors wrote specifically that the UN activities in this regard drew their attention to write about disability in Islam.<sup>59</sup>

The main characteristic of all studies mentioned below is the piecemeal approach which focuses on a specific aspect of Islam or on a specific disability.

The late Egyptian scholar Aḥmad al-Sharabāṣī (1918-1980)<sup>60</sup> chose to write on blind people only in his *Fī ‘ālam al-makfūfīn* (Inside the World of the Blind). The book consisted of two volumes, the first of which was published in 1375/1956<sup>61</sup> whereas the second is undated; it is however clear from the introduction of the second volume that it was not simultaneously published with the first volume.<sup>62</sup>

As for sources, al-Sharabāṣī complained that he did not have forerunners in this field, a fact that made his task more difficult. However, it is clear that one of the main sources of al-Sharabāṣī was *Nakt al-himyān fī nukat al-‘umyār*<sup>63</sup>

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<sup>56</sup> A number of articles helped me also to get an idea about the research field on disability in Islam. One of the early contributors in this field is M. Miles, see for instance Miles, M. (1981), pp. 125-134; Miles, M. (1995), pp. 49-69; Miles, M. (1) (2002), pp. 53-76. Rispler-Chaim wrote also more than one relevant article, see Rispler-Chaim, Vardit (1996); Rispler-Chaim, Vardit (1999). In 1997, a number of papers with relevance were submitted to the aforementioned tenth Juristic Medical Symposium held in Kuwait, see ‘Awaḍī, ‘Abd al-Raḥmān ‘Abd Allāh al- & Aḥmad Rajā’ī al-Jundī (eds.) (1422-2001), vol. 1, pp. 345-372, 395-443, vol. 2, pp. 481-517, 523-538, 601-636, 725-735, 734-775 & 777-833. For other articles, see Abū Ghudda, ‘Abd al-Sattār (1411/1991), pp. 215-239; Scalenghe, Sara (2004-2005), pp. 10-25; Bazna, Maysaa S. & Tarek A. Hatab (2005), pp. 5-27.

<sup>57</sup> For a general idea about modern literary, linguistic or historical works written on people with disability in the Islamic culture, see Ghaly, Mohammed M.I. (2005-2006), pp. 21 & 22.

<sup>58</sup> They are Dols, Michael W. (1992); ‘Abd Allāh, Laylā Muḥammad (1418/1997); Shāyī’, ‘Abd al-Ilāh b. ‘Uthmān b. ‘Abd Allāh (1418/1997); Shāyī’, ‘Abd al-Ilāh b. ‘Uthmān b. ‘Abd Allāh (1419/1998); Rispler-Chaim, Vardit (2007). It is to be noted that two sources were mentioned in the old version but disappeared in the new one, namely Sharabāṣī, Aḥmad al- (1375/1956) & Matrodi ‘Abdulrahman Sulayman al- (1991).

<sup>59</sup> See for instance, Quḍāt, Muṣṭafa al- (1406/1985), pp. a & b.

<sup>60</sup> On him, see <http://www.islamonline.net/Arabic/history/1422/12/article19.shtml> (accessed August 14, 2007).

<sup>61</sup> Sharabāṣī, Aḥmad al- (1375/1956).

<sup>62</sup> Sharabāṣī, Aḥmad al- (1), vol. 2, p. 4.

<sup>63</sup> *Himyān* is an arabised word denoting the purse tied on one’s waist where money and precious things are preserved in and *nakt* denotes drawing out or extracting. See Rāzī, Muḥammad b. Abī Bakr b. ‘Abd al-Qādir al- (1415/1995), vol. 1, p. 291; Ibn Manẓūr, Muḥammad b. Makram (1), vol. 15, p. 364. Thus *Nakt al-himyān* is drawing out this precious stuff kept in the purse. It is clear that al-Ṣafadī realized the novelty of his study’s topic.

(Extracting the Precious of the Anecdotes of the Blind)<sup>64</sup> written by Ṣalāḥ al-Dīn Khalīl b. Aybak al-Ṣafadī (d. 764/1363).<sup>65</sup>

Information recorded in this book is mainly historical, literary or linguistic in nature. Meager information with relevance to Islamic theology was noted in passing when the author raised, in the first volume, the question, why God created blindness although it is bad and disliked? Although most of these answers were medical in nature, some answers were loaded by theological interpretations. Additionally, the writer wrote a chapter in the second volume where he tried to collect the juristic rulings with relevance to the blind from fiqh manuals. It is clear that the author was not aware of earlier attempts in this respect made by early jurists such as Abū Ḥāmid al-Ghazālī and others (see below 1.4.2 Islamic Jurisprudence).

Sharabāṣī's attempt of collecting juristic rulings on blind people was further developed and detailed by the Jordanian researcher, Muṣṭafa Aḥmad al-Quḍāt in his *Aḥkām al-mu'waqīn fī a-sharī'a al-islāmiyya: aḥkām al-ūmyān* (The Rulings of the Disabled in the Islamic Sharī'a: The Rulings of the Blind). This is an unpublished M.A. thesis submitted to Dār al-Ḥadīth al-Ḥasaniyya in Morocco in 1406/1985.<sup>66</sup> Similar to his forerunner al-Sharabāṣī, al-Quḍāt complained the rarity of available sources on this topic. He made reference to al-Sharabāṣī's *Fī 'ālam al-makfūfīn* and his main source *Nakt al-himyān* by al-Ṣafadī. Al-Quḍāt traced the rulings with pertinence to blind people dispersed in different chapters in the fiqh manuals and put them together in one study.

In line with al-Sharabāṣī and al-Quḍāt, the Egyptian researcher, Laylā 'Abd Allāh Muḥammad 'Abd Allāh wrote on people with dumbness in Islamic jurisprudence. Her study *Aḥkām al-akhras fī al-fiqh al-islāmī* (Rulings on the Dumb in Islamic Jurisprudence) was originally an M.A. thesis submitted to al-Azhar University in Cairo in 1996 and was published in the form of a book in 1997.<sup>67</sup> Following the same pattern as al-Quḍāt in his M.A. thesis, the writer here also divided the rulings with relevance to dumbness into those falling under the category of devotional practices (*'ibādāt*), social dealings (*mu'āmalāt*), personal affairs (*aḥwāl shakṣiyya*) and penal laws (*jīnāyāt*).

The last author who focused on a specific type of disabilities is Michael W. Dols in his study *Majnūn: Madman in Medieval Islamic Society* which was posthumously published in 1992 under the redaction of Dania E. Immisch.<sup>68</sup>

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<sup>64</sup> Two edited versions of this book appeared, the first was in February 1911 at the request of Khedive 'Abbās Ḥilmī II to be distributed in the Fourth International Conference for bettering the conditions of the blind, see Ṣafadī, Ṣalāḥ al-Dīn Khalīl b. Aybak al- (1329/1911) and for the other version, see Ṣafadī, Ṣalāḥ al-Dīn Khalīl b. Aybak al- (1997). Dr. Husayn 'Abd al-Razzāq (Lecturer of Arabic literature in al-Imam Muḥammad b. Su'ūd University, Saudi Arabia) found that biographies given by Ṣafadī were not comprehensive. So, he decided to make a supplement in which he added those that were supposed to be recorded in al-Ṣafadī's *Nakt al-himyān* and *al-Shu'ūr bi al-'Ūr*, see Husayn, 'Abd al-Razzāq (1420/1999), pp. 19 & 28.

<sup>65</sup> On him, see Rosenthal, F. (2003), vol. VIII, pp. 758-760.

<sup>66</sup> Quḍāt, Muṣṭafa al- (1406/1985).

<sup>67</sup> 'Abd Allāh, Laylā Muḥammad (1418/1997).

<sup>68</sup> Dols, Michael W. (1992).

This work is an extended essay in social history. As indicated from the title, the book is exclusively concerned with people with madness (*junūn*). This massive study was based on a great number of sources reaching up to 784. This great number comprised sources in wide range of aspects such as medicine, belles-letters, chronicles, biographical dictionaries, geographers' and travellers' accounts and Islamic Law.

This study consists of three main sections. The first section "Healing, Natural and Supernatural: Medicine, Religion and Magic" examines the medical context and its relation to the development of the Islamic sciences and institutions and the practice of religious healing in Islam. The second section, "Perception: Profane and Sacred" studied three main varieties of *junūn* known to medieval Islamic society, viz., the Romantic Fool, Wise Fool and Holy fool. The third section, "Unreason: Privilege and Deprivation" investigated *junūn* as a condition which affected the *taklīf* (legal liability) of the person afflicted with. The main benefit of the book for my dissertation was the discussions on religious healing in Islam when the author spoke about Prophetic medicine.

The main study which reviewed the juristic rulings with relevance to people with disabilities as recorded in early fiqh manuals was *Aḥkām al-mu'awwaqīn fī al-fiqh al-islāmī* (Rulings of the Disabled in Islamic Jurisprudence) by the Jordanian researcher Sarī Zayd al-Kīlānī. This is an unpublished dissertation submitted to al-Azhar University in Cairo but the date of which has remained unknown to me.<sup>69</sup> Al-Kīlānī's approach is almost the same as that adopted in the two M.A. theses written by Laylā 'Abd Allāh and al-Quḍāt. He restricted himself to collecting the rulings with pertinence to people with disabilities available in the fiqh manuals. He also arranged the different topics in his dissertation exactly as adopted in these early manuals. However, unlike Laylā and al-Quḍāt, al-Kīlānī did not restrict himself to a specific sort of disability.

Recently, Vardit Rispler-Chaim (Haifa University) studied the position of people with disabilities in Islamic law in her *Disability in Islamic Law*. This work was published in 2007 and I could get a copy of it when I was in the finishing stage of writing my dissertation. Because of its importance and direct relevance to that part of my dissertation which focuses on Islamic jurisprudence, I did my best to incorporate it into the final version of my work. It is to be noted in this respect that the author made use of a study entitled *Ḥuqūq al-mu'awwaqīn fī al-sharī'a al-islāmiyya* (The Rights of the Disabled in Islamic Sharī'a) by Mūsā al-Bāṣīt. According to Rispler-Chaim, the book was published in Palestine in 2000. She made an English summary of it at the end of her study. I did my best to get a copy of this book but in vain. However, scanning the summary presented by Rispler-Chaim, one gets the impression that the content is very similar to the other modern Arabic studies mentioned above.

Although the book really forms an addition for the non-Arabic speaking reader, it would have saved the author much time if she had known about the

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<sup>69</sup> Kīlānī, Sarī Zayd al- (1).

other Arabic studies which also collected the juristic rulings with relevance to people with disabilities such as those of al-Quḍāt, Laylā ‘Abd Allāh and especially Sarī al-Kīlānī. In this respect, her book could be seen as a summary and translation of studies conducted by al-Quḍāt, Laylā ‘Abd Allāh and Sarī al-Kīlānī. However, the book also adds many new elements for which the author deserves our appreciation. For instance, the writer was clearly aware that she was writing for Western readers and thus tried and, to my mind, succeeded most of the time in transcending the time-gap between the early fiqh manuals and the modern time. One of the informative parts of the book was the appendix where the author included complete translations of a number of important fatwas with direct relevance to people with disabilities, concluded by an overall presentation of Mūsā al-Bāṣīt’s book.

Other studies focused on a specific aspect of Islamic literature. The main example in this regard is the work of the Saudi writer ‘Abd al-Ilāh b. ‘Uthmān al-Shāyī<sup>70</sup>. He wrote a three-book series entitled *Ārā’ al-‘ulamā’ al-muslimīn ḥawl al-i‘āqa* (Views of Muslim Scholars on Disability), which first appeared in 1996. In this series, al-Shāyī<sup>70</sup> wrote three books where he reviewed the viewpoints of one scholar in each book. The three scholars all belong to the Ḥanbalī School. He started by Ibn al-Qayyim (published in 1416/1996), then Ibn Taymiyya (published in 1420/1999) and finally Ibn Qudāma (published in 1420/2000).<sup>70</sup> The author based himself on sources written by these scholars and available in printed form. The book on Ibn al-Qayyim was based on eighteen works written by him, the book on Ibn Taymiyya on ten of his works and finally that on Ibn Qudāma on his juristic encyclopaedia, *Al-Mughnī* (The Sufficient). The author’s methodology was the same in the three books. He started each book with a biographical sketch about the scholar in focus followed by selected passages from the printed books of the concerned scholar deemed by him, without clarifying a specific criterion for selection, as relevant to the issues of disability.

A further publication by al-Shāyī<sup>70</sup> is his *Al-Lu’lu’ al-thamīn min fatāwā al-mu‘awwaqīn* (The Precious Pearls of the Fatwas on the Disabled) where he focuses completely on fatwas. This book consists of two volumes; the first was published in 1418/1997, the second in 1419/2000.<sup>71</sup> The two volumes were dedicated to fatwas issued by Saudi Scholars with relevance to people with disabilities. Some the fatwas were responses to questions posed by the author himself to the Saudi Scholar ‘Abd Allāh b. Jibrīn whereas the majority of fatwas were already available in other fatwa collections and the author brought them together.

Two studies focused on the social position of people with disabilities. The Syrian scholar Sa‘dī Abū Jayb (b.1932) wrote *Al-Mu‘awwaq wa al-mujtama‘ fī*

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<sup>70</sup> Shāyī<sup>70</sup>, ‘Abd al-Ilāh b. ‘Uthmān b. ‘Abd Allāh (1416/1996); Shāyī<sup>70</sup>, ‘Abd al-Ilāh b. ‘Uthmān b. ‘Abd Allāh (1420/1999); Shāyī<sup>70</sup>, ‘Abd al-Ilāh b. ‘Uthmān b. ‘Abd Allāh (1420/2000).

<sup>71</sup> Shāyī<sup>70</sup>, ‘Abd al-Ilāh b. ‘Uthmān b. ‘Abd Allāh (1418/1997); Shāyī<sup>70</sup>, ‘Abd al-Ilāh b. ‘Uthmān b. ‘Abd Allāh (1419/1998).

*al-sharīʿa al-islāmiyya* (The Disabled and Society in the Islamic Sharīʿa).<sup>72</sup> This small-size book (78 pages), published in 1402/1982, was originally a paper submitted to a symposium on providing care for people with disabilities held in Damascus during the period April 19-22, 1982. One of the main ideas recurrently elaborated throughout the book was the difference between ostensible (*zāhira*) disability and real (*ḥaqīqiyya*) disability. According to the author, ostensible disability is what afflicts body whereas real disability is what befalls the soul and thus drives the person away from God, the Creator. In the religion of Islam, the author added, it is the real rather than the ostensible disability which injures one's status and dignity. In the same vein, the Saudi researcher, ʿAbdulrahman Sulayman al-Matrodi wrote *The Disadvantaged in Islamic Society*. This study is an unpublished PhD thesis presented to the University of Glasgow in 1991.<sup>73</sup> The author made use of the already quoted work by Saʿdī Abū Jayb. This study, as stated by the writer, is a detailed presentation rather than a critical examination of the Islamic approach to the solution of the problem of poverty as a concomitant result of disability. Adopting a very flexible and broad interpretation for the term “disability”, the researcher divided disabilities into four main categories, viz., physical, mental, social and multi disability. Under the third category, the writer spoke about orphans, widows and divorcees. To the author, those different categories share a common form of social disability. As indicated from the title, all these categories of the disabled are living with troubles. They are, as termed by the author, the “disadvantaged” in society.

Three studies investigated the rights of people with disabilities. Focusing on the financial rights in particular, Mohammed M. Ghaly wrote *The Financial Rights of People with Disabilities: The Perspectives of the Islamic Sharīʿa and the Case of Muslims in the Netherlands*, his unpublished M.A. thesis submitted to Leiden University in 2002.<sup>74</sup> This thesis was the starting point of the current dissertation. The first part of it reviewed the main financial rights of the disabled in the juristic sources of Islam. These rights were classified on the basis of the social setting in which a person with disability may live in, namely, family, society and finally state. The second part of the thesis examined the reality of Muslims with disabilities and their families living in the Netherlands focusing on the financial services provided by the Dutch government on one hand and the other on the religious side represented by Islam as understood and practised by disabled Muslims and their families living in the Netherlands.

The other two studies broadened the scope of the rights of people with disabilities according to the Sharīʿa. The Moroccan scholar Muṣṭafā Ibn Ḥamza wrote *Ḥuqūq al-muʿawwaqīn fī al-islām* (The Rights of the Disabled in Islam), published in Morocco, 1414/1993.<sup>75</sup> Although the book was small in size (64 pages in total), it had a solid scientific content. This book was the first to come

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<sup>72</sup> Abū Jayb, Saʿdī (1402/1982).

<sup>73</sup> Matrodi ʿAbdulrahman Sulayman al- (1991).

<sup>74</sup> See Ghaly, Mohammed M.I. (2002).

<sup>75</sup> Ibn Ḥamza, Muṣṭafā (1414/1993).

across in the beginning of my research and that I benefited a lot from the eruditeness of the author and the divisions he made in it. In this study, the author divided the rights into financial and non-financial and divided disabilities into mental and physical ones.

As for people with mental disabilities, the main rights mentioned by the author were equality to others, integration in the community, education and rehabilitation, familial stability and the protection of their properties. The writer concluded this point by speaking about people with mental disabilities in the Islamic community especially at the time of the Prophet of Islam in order to show to what extent these rights were applied in social life. Concerning the rights of people with physical disabilities, the author mentioned the right of moral esteem or social honour, facilitating their daily activities, guiding and improving their capabilities and the social care in which *zakāh* is to play a substantial financial role. To conclude this point, the author gave practical examples to show the status of people with disabilities in early Islamic society.

The Jordanian researcher, Muṣṭafa al-Quḍāt broadened the topic a bit more by conducting a comparative study between Islamic law and positive laws. This was in his *Huqūq al-mu'awwaqīn bayn al-sharī'a al-islāmiyya wa al-qānūn* (Rights of the Disabled between Islamic Sharī'a and Law). This is a PhD dissertation, a further development of his M.A. thesis on blind people, submitted to Dār al-Ḥadīth al-Ḥasaniyya in Morocco in 1992.<sup>76</sup> The dissertation was published in Jordan in 2002.<sup>77</sup> The researcher divided his dissertation into two main parts. The first part reviewed the main rights of people with disabilities, while the second part discussed the means of realising and guaranteeing these rights. He divided the rights into basic rights on the one hand and civil, political and social rights on the other. Basic rights included the right to live, right of having a name and lineage, the right of secrecy concerning correspondence and private affairs, the right to learn and finally the right to work. Under the category of civil rights, the researcher discussed issues like marriage, inheritance and ownership. Political rights included discussions on nationality and homeland. The social rights comprised health care, transportation, sportive games and means of entertainment.

### *Critical Assessment*

Unaware of the above-mentioned studies,<sup>78</sup> Sara Scalenghe (PhD, Georgetown University) recently wrote “The study of disability in the medieval Islamic world is still in its infancy.”<sup>79</sup> I believe the abovementioned thirteen studies would make us speak about childhood rather than infancy in this field. At any rate, these studies can be all described as pioneering studies and every author

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<sup>76</sup> Quḍāt, Muṣṭafa al- (1412/1992).

<sup>77</sup> Quḍāt, Muṣṭafa al- (2002). Being able to get an access to the dissertation rather than the published book, all references below and throughout this study are based on the unpublished version.

<sup>78</sup> Among the aforementioned studies, Scalenghe was aware of just one, Dols, Michael W. (1992).

<sup>79</sup> Scalenghe, Sara (2007), p. 208.

was aware of this fact. Yet, most of the authors were not aware of their forerunners. I hope this study would make them know each other. A number of critical remarks on these studies are due.

The authors tried to gather the scattered information in early sources and collect them in one study. However, it seems that they thought this was possible only in Islamic jurisprudence rather than Islamic theology. Theological discussions on disabilities occupied, if they were ever mentioned, a very marginal position only. Thus discussions on Islamic theology in my dissertation here is a new addition in this field.

As for Islamic jurisprudence, these studies were satisfied with consulting early fiqh manuals to pick out the rulings with relevance to people with different disabilities such as the blind, the lame, the deaf, etc. Doing so, some of the crucial issues for people with disabilities in the modern time were not handled because they were not discussed in a specific chapter in the fiqh manuals. We give here just a few examples.

Speaking about the dignity of people with disabilities, modern studies depended mainly on general remarks stressing the dignity accorded to every human being in Islam or just stating that the juristic rulings with pertinence to people with disabilities indicate that their dignity was guaranteed. To my mind this is half of the story. Main juristic discussions on the dignity of people with disabilities took place outside the fiqh manuals. Physiognomic sources, biographical studies on Muslim jurists and Ibn Fahd's *Al-Nukat al-zirāf* add credit to this fact. A topic such as medical treatment of people with disabilities was also not seriously handled by any of the above-mentioned studies. That is because medical treatment was handled by early jurists as part of broad chapters such as *janā'iz* (death-rituals). As a pre-death ritual, jurists spoke about sickness and its relevant juristic rulings. Additionally, questions like how people with disabilities would earn their livelihood were hardly the focus of detailed discussions in the modern studies.

#### **1.4 Research Question, Methodological Approach and Focus**

In this study, special concern is given to the frequently expressed calls of conducting studies elaborating on the status of people with disabilities in Islam and simultaneously to the gaps of the previous studies we have already discussed. Bearing in mind that none of the main Islamic sources consulted in this study formulated a comprehensive survey of the status of people with disabilities in Islam, it would have been anachronistic to approach these sources with the intention of finding such a pronouncement. The attempt here is rather to piece together the disparate and sporadic information on disability in these sources and to mould them into a coherent and systematic form. In this sense, the approach adopted in this study can be characterised as “systematic and constructive”. Another characteristic of the approach in this study is its closeness to the human-rights tendency which is prevalent at present in global discussions and studies on disabilities. The main stream of UN documents on people with disabilities is continuously stressing the rights of this group of

people. The same holds true for a large number of modern studies which handled the status of people with disabilities within an Islamic perspective.<sup>80</sup> The reader searching for the rights of people with disabilities such as medical treatment, employment, financial care, marital life, etc. will easily find suitable information in this study.

Islamic sources present Islam as a religion composed of a number of rules that its adherents are asked to abide by. These rules are divided into those related to beliefs (*ʿitiqādiyya*) or to practical actions (*ʿamaliyya*).<sup>81</sup> The former were the subject of Islamic Theology (*ʿaqīda*) whereas the latter were the subject of Islamic Jurisprudence (*fiqh*). Thus portraying an over-all view of persons with disabilities in Islam necessitates studying the relevant discussions in these two Islamic sciences. In this sense, surveying the broad spectrum of perspectives and discussions on people with disabilities evinced in these two main Islamic sciences, viz., Islamic Theology and Islamic Jurisprudence will be the main focus of this study. Based on what has been stated here, the main question in this dissertation is: **what is the status of people with disabilities in Islam as viewed by Islamic Theology and Islamic Jurisprudence?**

This multi-faceted question is handled throughout the eight chapters which compose this dissertation. Besides this introductory chapter which gives overall remarks, the other seven chapters examine the status of people with disabilities in **Islamic Theology** and **Islamic Jurisprudence**. **Chapters Two** and **Three** are dedicated to the discussions with relevance to Muslim beliefs. **Chapters Four** till **Eight** investigate the status of people with disabilities as revealed in the detailed practical rulings (*al-aḥkām al-ʿamaliyya*) reflecting some of the rights of people with disabilities. Before delving into further details, the concepts of these two sciences and the main focus in each of them in this study are to be elaborated.

#### 1.4.1 Islamic Theology

“Theology” is originally a Greek word composed of *theos* (God) and *logos* (discourse). This western term was used to denote the science of studying the religious beliefs.<sup>82</sup> The Islamic science studying these beliefs had more than one name, the most famous of which was *ʿilm al-kalām*.<sup>83</sup> However, there are other names for this science such as *al-fiqh al-akbar*,<sup>84</sup> *ʿilm uṣūl al-dīn*,<sup>85</sup> *ʿilm al-*

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<sup>80</sup> For sources whose titles bear the word “rights”, see for instance, Ibn Ḥamza, Muṣṭafā (1414/1993); Quḍāt, Muṣṭafā al- (1412/1992); ʿAbd Allāh, Muḥammad ʿAbd Allāh (1422/2001), pp. vol. 2, pp. 665-721; Muṭawwaʿ, Munīra Khālīd al- (1422-2001), vol. 2, pp. 641-657; Shirbīnī, Luṭfī al- (2001), vol. 2, pp. 601-636; Abū Ghudda, ʿAbd al-Sattār (2001), vol. 2, pp. 734-775; Yasīn, Muḥammad Naʿīm (2001), vol. 2, pp. 777-833.

<sup>81</sup> Taftazānī, Saʿd al-Dīn Masʿūd b. ʿUmar al- (1), p. 30; Bayāḍī, Kamāl al-Dīn Aḥmad al- (1949), pp. 28 & 29; Bukhārī, ʿAbd al-ʿAzīz b. Aḥmad b. Muḥammad al- (1), p. 7.

<sup>82</sup> See, Eliade, Mercea (1987), p. 455; Hastings, James (1974), vol., 5, p. 293; *The New Encyclopaedia Britannica* (1982), item “theology”, p. 247; Hodgson, Peter Crafts (1994), p. 3; Williams, John Rodman (1996), p. 16; McGrath, Alister E. (1998), p. 1.

<sup>83</sup> See Ibn Khaldūn (1984), vol. 1, p. 466; Wizārat al-Awqāf wa al-Shuʿūn al-Islāmiyya bi al-Kuwayt (1), vol. 1, p. 12.

<sup>84</sup> One of the oldest names given to this science and attributed to Imam Abū Ḥanīfa. See Bayāḍī, Kamāl al-Dīn Aḥmad al- (1949), pp. 28 & 29; Shāfiʿī, Hasan Maḥmūd al- (1411/1991), p. 26.



‘*aqā’id*’,<sup>86</sup> ‘*ilm al-tawḥīd*’,<sup>87</sup> ‘*ilm al-tawḥīd wa al-ṣifāt*’<sup>88</sup> and ‘*ilm al-naẓar wa al-istidlāl*’.<sup>89</sup>

The subject matter of this science was the religious beliefs (‘*aqā’id*’) of Muslims. This science was concerned with firmly establishing these beliefs by adducing proofs and banishing doubts.<sup>90</sup> The main themes of this science were in the first place the *ilāhiyyāt* or *naẓariyyāt* (speculative theology) discussing mainly, on philosophical grounds, the existence of God, the Creation and the necessity of the Prophethood. The second part was the *sam‘iyyāt* (traditional theology) containing a systematic elaboration of the doctrine based on the data of the revelation. The *nubuwwāt* (matters pertaining to Prophethood) were usually classified under the category of *sam‘iyyāt* but, according to some authors, represented a distinct category constituting a link between *ilāhiyyāt* or *naẓariyyāt* and *sam‘iyyāt*.<sup>91</sup>

Discussions on disability-related issues are to be located in the first theme, i.e., the *ilāhiyyāt* because it dealt with (a) the existence of God (*wujūd Allāh*) and His attributes and (b) the actions of God (*af‘āluhū ta‘ālā*).<sup>92</sup> One of the main topics of *ilāhiyyāt* in which these two items were discussed was *al-qaḍā’ wa al-qadar* (Fate and Predestination).<sup>93</sup> *Al-Qaḍā’ wa al-qadar* in Islamic Theology focused on two main points. The main concern was given to the issue of man’s freedom to act and God’s Predestination. This point falls beyond the focus of this study.<sup>94</sup> The second point was the adversities, afflictions and

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<sup>86</sup> See Gimaret, D. (2003), vol. X, pp. 930 & 931. It is also noteworthy to state that the expression *uṣūl al-dīn* occurs in the titles of many treatises on Islamic Theology. For such treatises representing the Ash‘arī viewpoint, see Baghdādī, Abū Maṣṣūr ‘Abd al-Qāhir al- (1346/1928); Juwaynī, Abū al-Ma‘ālī, al- (1969). For the Ḥanafī-Māturīdī viewpoint, see Bazdawī, Abū al-Yusr al- (1307/1889); Nasafī, Maymūn b. Muḥammad al- (1990). For the Ḥanbalī viewpoint see Abū Ya‘lā, Ibn al-Farrā’ (1974). For the Mu‘tazilī viewpoint, see Ibn al-Malāḥimī, (1991).

<sup>87</sup> Shāfi‘ī, Ḥasan Maḥmūd al- (1411/1991), p. 30; Wizārat al-Awqāf wa al-Shu‘ūn al-Islāmiyya bi al-Kuwayt (1), vol. 1, p. 12.

<sup>88</sup> Bukhārī, ‘Abd al-‘Azīz b. Aḥmad b. Muḥammad al- (1), vol. 1, p. 7; Wālī, Husayn (1909), p. 123; Jād al-Ḥaqq, ‘Alī Jād al-Ḥaqq (1979); Shāfi‘ī, Ḥasan Maḥmūd al- (1411/1991), p. 30; Wizārat al-Awqāf wa al-Shu‘ūn al-Islāmiyya bi al-Kuwayt (1), vol. 1, p. 12; Gardet, L.(1), (2003).

<sup>89</sup> Taftazānī, Sa‘d al-Dīn Mas‘ūd b. ‘Umar al- (1), p. 4, Shāfi‘ī, Ḥasan Maḥmūd al- (1411/1991), pp. 30 & 31.

<sup>90</sup> Shāfi‘ī, Ḥasan Maḥmūd al- (1411/1991), p. 32.

<sup>91</sup> Bayḍawī, ‘Abd Allāh b. ‘Umar al- (1323/1905), p. 4; Ījī, ‘Aḍud al-Dīn ‘Abd al-Raḥmān b. Aḥmad al- (1997), vol. 1, p. 30; Ibn Khaldūn (1984), vol. 1, p. 458 Gardet, L. (1) (2003), vol. III, pp. 1141-1150.

<sup>92</sup> Shāfi‘ī, Ḥasan Maḥmūd al- (1411/1991), pp. 20 & 21; Gardet, L. (1) (2003)

<sup>93</sup> Gardet, L. (2) (2003), vol. I, pp. 342 & 343.

<sup>94</sup> “*Al-Qaḍā’ wa al-qadar*” when combined into one expression these two words have the overall meaning of the Decree of God, both the eternal Decree (the most frequent meaning of *qaḍā’*) and the Decree given existence in time (The most frequent meaning of *qadar*). For further details over the meanings and definitions of *al-qaḍā’* and *al-qadar*, see Mudhārī, Ibrāhīm b. Muṣṭafā al-Ḥalabī al- (1358/1939) pp. 32-55. In this book, al-Mudhārī gave sixteen definitions for the term *al-qaḍā’ wa al-qadar*. See also Nawawī, Abu Zakariyya Yaḥyā b. Sharaf al- (1392 A.H.), Vol. 1, pp. 154 & 155; Asqalānī, Aḥmad b. ‘Alī b. Ḥajar al- (1379/1959), vol. 11, p. 509; Būṭī, Mohammed Sa‘īd Ramaḍān, al-, (2001), pp. 37, 38, 210, 217, 221, 233; Gardet, L. (2003), vol. IV, pp. 365-367.

<sup>94</sup> This point was one of the very knotty issues that busied the minds of theologians from the

misfortunes befalling creatures as an essential part of God's predetermined course of events and this point was the focus of this study. It is noteworthy to state that Muslim theologians did not speak about disabilities as a distinct topic. One can hardly find any chapter speaking about people with disabilities in particular. Abū al-Ḥasan Al-Ash'arī's (d. 324/935-6) chapter entitled *Mas'ala fī ilām al-atfāl* "Question Concerning the Torture of the Infants" in his book *Al-Ibāna* (Illumination) could be an exception in this regard. In this chapter, al-Ash'arī spoke about children who get afflicted with leprosy which cuts off their hands and their feet.<sup>95</sup> Disabilities were usually included in discussions on broader terms like *muṣība*<sup>96</sup> (affliction or calamity), *sayyi'a*<sup>97</sup> (misfortune or evil), *sharr*<sup>98</sup> (evil) and the like. These are Qur'anic terms whose interpretation by the Companions of the Prophet (*saḥāba*), their Successors (*tābi'ūn*) and scholars of Qur'anic exegesis (*tafsīr*) show that different sorts of disabilities were included in their purport.<sup>99</sup>

One of the key-terms which permeated the theological discussions in Islamic sources on disability was *ta'īl* whose most used English equivalent is "theodicy". For a better understanding of theological discussions to follow, a note on this Arabic term and its English equivalent is in order.

The term "*ta'īl*" denoted literally causation or search for the causes and referred to the logical relationship between cause and effect.<sup>100</sup> This term was used by Muslim jurists and theologians in two different contexts. In the juridical usage, *ta'īl* and its derivative *'illa* (effective cause), did not exactly refer to a casual relationship between two phenomena. It meant rather the *ratio* of the law, its value and its purpose.<sup>101</sup> Besides Abū Ḥāmid al-Ghazālī (d. 1111) who discussed the issue of *ta'īl* extensively in his book *Shifā' al-ghalīl*

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early Islamic history up to the present time and that is why most of the books and compilations written on *al-qaḍā' wa al-qadar* focused on this point and gave less or no attention to the other point which is our concern here. For those interested in having an idea about this point, see for instance Obermann, Julian (1935); Rehman, Mutazid Wali-ur, (1939); Watt, W. Montgomery (1948); Siddiqi, Mazheruddin (1953); Vahiduddin, S (1968); Ansari, Zafar Ishaq (1969), vol. XVI, pp. 65-78; Schmidtke, Sabine (2001); Frolov, Dmitry V. (2002).

<sup>95</sup> Ash'arī, Abū al-Ḥasan 'Alī b. Ismā'īl al- (1397/1977), pp. 193 & 194; Ash'arī, Abū al-Ḥasan 'Alī b. Ismā'īl al- (1940), pp. 112 & 113.

<sup>96</sup> For the derivatives and meaning of this term, see Fayyūmī, Aḥmad b. Muḥammad b. 'Alī al- (1), pp. 349 & 350.

<sup>97</sup> For the derivatives and meaning of this term, see Ibid, p. 298.

<sup>98</sup> For the derivatives and meaning of this term, see Ibid, p. 309.

<sup>99</sup> For instance, *muṣība* has been interpreted as disability and sickness in general, see Bayḍāwī, 'Abd Allāh b. 'Umar al- (1416/1996), vol. 5, p. 303; Qurṭubī, Abū 'Abd Allāh Muḥammad b. Aḥmad al- (1372/1952), vol. 16, pp. 30 & 31 & vol. 17, p. 257; vol. 4, p. 315; Ṭabarī, Muḥammad b. Jarīr al- (1405/1984), vol. 27, p. 234; Ibn al-Jawzī (1404/1983), vol. 8, p. 173; Nasafī, Abū al-Barakāt al- (1), vol. 14, p. 219. Also *sayyi'a* has interpreted as a synonym for *muṣība*, see Ibn al-Jawzī (1404/1983), vol. 2, p. 139; Ibn Taymiyya (1), vol. 1, p. 42; Alūsī, Abū al-Faḍl Maḥmūd al- (1), vol. 12, p. 15. As for *sharr* (pl. *shurūr*), Ibn al-Qayyim named pains and adversities in life as evils (*shurūr*). See Ibn al-Qayyim (1348/1929), vol. 1, p. 376.

<sup>100</sup> See Kamali, Muhammad Hashim (2003), pp. 46-51, see also pp. 27, 280, 299 & 332.

<sup>101</sup> For further information on this usage of *ta'īl* see Hasan, Ahmad (1974), pp. 95-127; Kamali, Muhammad Hashim (2003), pp. 46-51, see also pp. 27, 280, 299 & 332.

(Quenching the Thirst), more than one Muslim jurist composed books bearing the title *ta'ālil* dedicated to investigating the values and purposes of the law.<sup>102</sup>

The theological usage of *ta'ālil* was more concerned with God's actions. In other words, *ta'ālil* in this sense indicated the quest for the divine wise purposes (*hikam*) for God's actions.<sup>103</sup> The purport of *ta'ālil* was not restricted to evolving arguments to clarify or justify pain, suffering, evil and the like. *Ta'ālil* was a generic term indicating that God's actions can be rationalized whether these actions were deemed good or bad from the human perspective. Ending up in Paradise or Hell in the Hereafter and the question whether this was dependent on one's good deeds or bad deeds in this life or on God's foreordained judgment, all such issues were discussed within the broad spectrum of *ta'ālil*.<sup>104</sup> Considering the main focus of this study, our discussions will be restricted to those bids of developing rational arguments in order to clarify or justify the existence of disabilities and other forms of suffering. This restricted sense of *ta'ālil* is close to the term "theodicy" coined by Gottfried Leibniz (d. 1716) from the Greek *theos* (God) and *dikē* (justice).<sup>105</sup>

To recapitulate, disability as viewed in Islamic theology is a very under-researched topic if not a completely unstudied subject. This is in spite of the fact that among the voices calling for studying the status of people with disabilities in Islam, clear calls expressed the importance of focusing on Islamic theology in this respect.<sup>106</sup> To my mind, relevant discussions available in theological sources of Islam fall also within the human-rights approach. To a believing person afflicted with disabilities, answering the ontological and theological questions about the existence of disability in life and how to deal with it according to the norms of his religion is by no means less important or less urgent than answering his financial and medical needs.

#### 1.4.2 Islamic Jurisprudence (*Fiqh*)

*Fiqh* is linguistically "understanding, knowledge, intelligence", and thus applied to any branch of knowledge (as in *fiqh al-lughah*, the science of lexicography). In the technical sense it is the knowledge of the practical religious rulings from their detailed proofs.<sup>107</sup> "Jurisprudence" is the most common English equivalent for the Arabic term *fiqh*. However, "Jurisprudence" does not convey the full meaning of "*fiqh*". For instance, *fiqh* handles all issues in life whether

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<sup>102</sup> Just to mention some of these scholars, we refer to Ibn al-'Izz from the Hanafī school, see Zāda, 'Abd al-Rahmān b. Muḥammad Shaykhī (1), vol., 1, p. 245, 'Abd al-Malik b. 'Abd al-'Azīz al-Mājjishūn from the Mālikī school, Abū al-Walīd al-Bājī from the same school, see Ḥaṭṭāb, Abū 'Abd Allāh al- (1412/1992), vol. 6, p. 93 and a third Mālikī jurist, Abū 'Abd Allāh al-Māzīrī, see Zayn al-Dīn, 'Abd al-Rahīm b. al-Ḥusayn al-'Irāqī (1), vol. 8, p. 100.

<sup>103</sup> See for instance, Ibn Taymiyya (7), vol. 8, pp. 377-381; Ibn al-Wazīr, Muḥammad b. Ibrāhīm (1987), vol.1, pp. 181 & 182.

<sup>104</sup> See for instance Hasan, Ahmad (1974), pp. 98-101.

<sup>105</sup> See Leibniz, G.W. (1951); Green Ronald M. (1997), p. 431; Hoover, John R. (2002), p. 1.

<sup>106</sup> See for instance, see 'Abd al-Rahmān 'Abd Allāh al-'Awaḍī & Aḥmad Rajā'ī al-Jundī (eds.) (1422-2001), vol. 2, pp. 577, 582 & 587.

<sup>107</sup> See Ashqar, 'Umar Sulaymān al- (1413/1991), pp.9-18; Wizārat al-Awqāf wa al-Shu'ūn al-Islāmiyya bi al-Kuwayt (1), vol. 1, pp. 11-15 & vol. 32, pp. 193 & 194.

those between the humans on one hand and God on the other (*‘ibādāt*) or those between humans only (*mu‘āmalāt*). However, “Jurisprudence” is restricted to the inter-human issues and has nothing to do with what happens between man and God.<sup>108</sup>

The subject matter of this science was the practical rulings derived from the detailed proofs of the Shari‘a, such as the Qur’anic verses and the Prophetic traditions. These rulings were always discussed by the Muslim jurists under two main headings, i.e., *‘ibādāt* (the liturgical and religious observances) and *mu‘āmalāt* (social dealings) which included more or less the rest.<sup>109</sup> A number of jurists added the heading of *‘uqūbāt* (punishments) or *munakaḥāt* (marriage affairs).<sup>110</sup> Rulings pertaining to people with disabilities were disseminated throughout these chapters. In this regard, the exceptional phenomenon of allotting a specific chapter to people with disabilities in juristic sources is in order.

Speaking about allotting an independent chapter to the juristic rulings of the hermaphrodite, Vardit Rispler-Chaim said, “... the blind and the lame, the deaf and the dumb, whose disabilities are detected in higher percentages in both infants and adults, and are evident, have never been allotted separate chapters and are only sporadically discussed in the fiqh.” This statement should not be taken without reservation especially concerning the blind. For instance, the contemporary Kuwaiti scholar ‘Abd Allāh Muḥammad ‘Abd Allāh said that the Shāfi‘ī jurist, Abū Yahyā Zakariyyā al-Anṣārī (d. 926/1520) was the first to write a chapter entitled *Bāb aḥkām al-a‘mā* (A Chapter on the Rulings of the Blind) in his book *Tahrīr tanqīḥ al-lubāb*.<sup>111</sup> Moreover, al-Anṣārī was not the first in this respect but just following a tradition done by earlier Shāfi‘ī jurists such as Abū Ḥāmid al-Ghazālī (d. 1111) in his book in *al-Rawnaq* (glamour),<sup>112</sup> al-Nawawī (d. 676/1277), in *Al-Majmū‘ sharḥ al-muhadhdhab*,<sup>113</sup> and al-Suyūṭī (d. 911/1505) in *Al-Ashbāh wa al-naẓā’ir* (The Similar and Parallels).<sup>114</sup> The

<sup>108</sup> See Ashqar, ‘Umar Sulaymān al- (1413/1991), pp. 35 & 36; Goldziher, I & Joseph Schacht (2003), vol. II, pp. 886 & 887. For more differences between *Fiqh* and Jurisprudence, see Wizārat al-Awqāf wa al-Shu‘ūn al-Islāmiyya bi al-Kuwayt (1), vol. I, pp. 20-22.

<sup>109</sup> Ashqar, ‘Umar Sulaymān al- (1413/1991), pp. 20-24; Bousquet, G.H. (2003), vol. III, pp. 647 & 648; Bernand, M. (2003), vol. II, pp. 255-257.

<sup>110</sup> Ashqar, ‘Umar Sulaymān al- (1413/1991), p. 21.

<sup>111</sup> See Anṣārī, Abū Yahyā Zakariyya al- (1), pp. 140 & 141; ‘Abd Allāh, Muḥammad ‘Abd Allāh (1422/2001), vol. 2, p. 678. As for the title *Tahrīr tanqīḥ al-lubāb*, literally it is “Editing the Review of the Essence”. *Lubāb al-fiqh* (Essence or Core of Fiqh) is a book composed by Imam al-Juwaynī (d. 478/1085) then it was abridged by Burhān al-Dīn b. Ibrāhīm b. Musā al-Karkī al-Shāfi‘ī (d. 826) and called it *Tanqīḥ al-lubāb* (Reviewing the Essence). Abū Yahyā Zakariyya al-Anṣārī re-abridged *Tanqīḥ al-lubāb* and called it *Tahrīr tanqīḥ al-lubāb* “Editing the Review of the Essence”. See Khalīfa, Ḥājī (1412-1992), vol. 2, p. 1541.

<sup>112</sup> This has been stated by those who quoted from him such as al-Suyūṭī, see Suyūṭī, Jalāl al-Dīn al- (1403/1983), pp. 251. However, I could not trace this book whether in a manuscript or in an edited form.

<sup>113</sup> Nawawī, Yahyā b. Sharaf al- (1), vol. 9, p. 368. *Al-Majmū‘* lit. is the collected or the grand-total, *sharḥ* means, explanation and *Al-Muhadhdhab* is a title of the book which literally means the refined. Thus the title can be translated as *The Collected in Explaining the Refined*.

<sup>114</sup> See Suyūṭī, Jalāl al-Dīn al- (1403/1983), pp. 251-253.

same tradition can also be traced among Ḥanafī jurists such as Ibn Nujaym (d. 970/1563) in *Al-Ashbāh wa al-naẓā'ir* (The Similar and Parallels) and the commentary on this book by Aḥmad b. Muḥammad al-Ḥamawī (d. 1098/1687) in *Ghamz 'uyūn al-baṣā'ir fī sharḥ al-ashbāh wa al-naẓā'ir* (Winking the Fountains of Insights in Explaining the Similar and Parallels).<sup>115</sup>

To recapitulate, the disability-related issues in this science cannot be adequately studied through the subject matter but through the terms used for denoting disabilities. In a bid to systemise such rulings and put them in a context understandable to the current reality, the main focus of this study was the main practical means by which people afflicted with disabilities can still live, in the social and the financial sense, a fairly satisfactory life. Bearing in mind that these practical means are always produced in the modern time under the broad term “rights”, a note will first be dedicated to the equivalent term in Arabic, i.e., “*ḥaqq*”, in order to avoid any possible confusion or misunderstanding about the use of this modern term in a juristic sense.

Linguistically, *ḥaqq* is either “truth”, i.e., “what corresponds to facts” and its opposite is *bāṭil* (untrue) or the established fact (*al-thābit*) and therefore “reality”.<sup>116</sup> In the technical sense, *ḥaqq* had two main definitions based on these two linguistic denotations. In the theological context, derived directly from the first linguistic denotation, it referred to the judgement identical to truth and thus used to indicate the contentions, beliefs, religions and sects in the sense that they include the *ḥaqq*; its opposite is *bāṭil* (untrue).<sup>117</sup> In the juristic context, based on the second linguistic denotation, *ḥaqq* referred to what has been established to someone by the Islamic Shari‘a for his/her interest.<sup>118</sup> However, there may be a propensity in the classical Islamic sources towards obligations rather than rights. Thus the right to life, for instance, is expressed in the Islamic system as the duty to save life.<sup>119</sup> A closer examination, however, reveals that a mere propensity in the style of communication does not have a negative effect upon the substance and the validity of rights in the Shari‘a. The ruling conveyed the notion of right (when viewed from the vantage point of a right-bearer) or the notion of obligation (when viewed from the position of the party responsible for putting this right into practice). Hence, all what was done by the modern studies was that they have just reversed the focal point, i.e., by using “rights” instead of “obligations” but the main content

<sup>115</sup> See Ḥamawī, Aḥmad b. Muḥammad al- (1405/1985), pp. 334 & 335.

<sup>116</sup> See Jurjānī, ‘Alī b. Muḥammad b. ‘Alī al- (1405/1984), vol. 1, p. 120; Rāzī, Muḥammad b. Abī Bakr b. ‘Abd al-Qādir al- (1415/1995), vol. 1, p. 62; Ibn Nujaym, Zayn al-Dīn b. Ibrāhīm (1), vol. 6, p. 148; Ibn ‘Abidīn, Muḥammad Amīn b. ‘Umar (1), vol. 5, p. 187.

<sup>117</sup> Wizārat al-Awqāf wa al-Shu‘ūn al-Islāmiyya bi al-Kuwayt (1), vol. 18, p. 7.

<sup>118</sup> Ibid, vol. 3, p. 10.

<sup>119</sup> See Grīsha, ‘Alī (1987), p. 31 & 32; Badawi, Mohamed Zaki (2001), in an unpublished lecture, *Islam and citizenship*, delivered in the conference, “Does the Muslim Citizen Exist?” held in Rotterdam, the Netherlands, 2001 and organised by the Dutch Organisation Islam & Burgerschap (Islam and citizenship). For further details and critical study on this lecture, see Ghaly, Mohammed M.I. (2001).

and purport remained in both cases the same.<sup>120</sup>

Furthermore, the term *ḥaqq* always involved in Islam a sense of nobility and also sometimes sacredness. The Qur'anic use of this term indicated that it was sometimes in order to refer to God (Qur'ān 6:62, 20:114, 22:06) and other times to the holy scripture of Muslims, i.e., the Qur'ān (Qur'ān 4:170, 5:48, 10:94). Also guiding to the *ḥaqq* (Qur'ān 10:35), hurling it against *al-bāṭil* (the false) (Qur'ān 21:18) and making it finally victorious is the affair of God Himself (Qur'ān 17:81). All this clothed this term with a specific halo in the Islamic context.<sup>121</sup>

As for the divisions of *ḥuqūq* (rights), they were divided on more than one level. Here we chose the divisions with relevance to our concern here, i.e., people with disabilities. In terms of the recipient of *ḥuqūq*, Muslim jurists distinguished between two main spheres of *ḥuqūq*, namely, *ḥuqūq Allāh* (lit. claims or rights of God or public rights) and *ḥuqūq al-'ibād* or *ḥuqūq al-ādamiyyīn* (claims or rights of men or human beings). The first sphere stood for the rights of the Islamic community at large. Attributing these rights to God was only for the sake of glorifying their value and stressing the exhaustiveness of their benefits lest they will be accorded to a specific person. The second sphere covered claims of private individuals in their dealings with each other.<sup>122</sup> In terms of their content, *ḥuqūq* were divided into financial (*mālīyya*) and non-financial (*ghayr mālīyya*).<sup>123</sup> In terms of enforceability, *ḥuqūq* were divided into religious (*dīnī*) and juridical (*qaḍā'ī*). The former, although validated by the Shari'a, cannot be proven or enforced by court. Most of the rights of God (i.e. *'ibādāt*, *kaffārāt*, etc.) fell in this category. Rights without a particular party as the right-bearer such as religious endowment (*waqf*) for the poor and the indigent fell also into this category.<sup>124</sup> Juridical rights, on the other hand, are susceptible to proof at the behest of the right-bearer, and the Shari'a court had the power to adjudicate them. One of the examples of this right was the wife's right to maintenance by her husband.<sup>125</sup>

Although the term *ḥaqq*, pl. *ḥuqūq* was not restricted to people with disabilities per se, it was always connected with them, especially in the modern literature. Expressions like *ḥuqūq al-mu'awwaqīn* (rights of people with disabilities) have become key expressions in modern literature on people with disabilities in Islam.<sup>126</sup> Bearing in mind the prevalence of the term "rights of

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<sup>120</sup> Kamali, Muhammad Hashim (1993), p. 340.

<sup>121</sup> Abū Ghudda, 'Abd al-Sattār (1411/1991), p. 216.

<sup>122</sup> See Bukhārī, 'Abd al-'Azīz b. Aḥmad b. Muḥammad al- (1), vol. 4, pp. 134 & 135; Ibn Nujaym, Zayn al-Dīn b. Ibrāhīm (1), vol. 6, p. 148; Ibn al-Qayyim (1973), vol. 1, p. 108; Kamali, Muhammad Hashim (1993), p. 348; Hoexter, Miriam (1995), p. 134; Nashmī, 'Ajīl Jāsīm al- (1423/2002), p. 163.

<sup>123</sup> Ibn Qudāma, Abū 'Abd Allāh Muḥammad b. Aḥmad al-Maqdisī (2), vol. 10, p. 218; Nashmī, 'Ajīl Jāsīm al- (1423/2002), pp. 164-166.

<sup>124</sup> Kamali, Muhammad Hashim (1993), p. 348.

<sup>125</sup> Ibid, p. 349.

<sup>126</sup> See for instance, Miles, M. (1981), p. 128; 'Awaḍī, 'Abd al-Raḥmān 'Abd Allāh al- & Aḥmad Rajā'ī al-Jundī (eds.) (1422-2001), vol. 1, p.8 & vol. 2, p. 472; Such expressions have been also used in the titles of some books and articles, see Ibn Ḥamza, Muṣṭafā (1414/1993); Minyāwī,

people with disabilities” at the present time, it was a key-term throughout presenting discussions in juristic sources about people with disabilities.

### **1.5 Structure and Organisation of the Study**

**Chapters Two and Three**, dedicated to studying people with disabilities in **Islamic Theology**, handles two main questions, viz., “Why does disability exist since Allah is the Omnipotent, All-Just and All-Merciful?” and “What should be done if someone got afflicted with disability?” Theological discussions on the first question can be classified under the theme of “Speculative Theology” whereas discussions on the second questions under the theme of “Practical Theology”. The former represents a bid to explain the ontology of disabilities and sufferings. The latter investigates how to live with such disabilities and misfortunes. These two arguments are respectively the topics of **Chapter Two** and **Three**.

**Chapter Two (Speculative Theology)**, handles the theological clarifications and justifications put forward by Muslim scholars in response to the existence of disabilities and evil in general. As a theistic religion, a belief in the perfect image and spotless character of God was always a central point. The existence of disabilities, pains or evils in general should not cast doubts on the perfect character of God. This was a strict guideline or red line that should not be transgressed and different groups, despite their discrepancies, stuck to this line. As exception in this respect, two main groups existed throughout the Islamic history whose contentions were seen as casting doubts on the perfect character of God. The introductory remarks of this chapter showed that one group was declared heretics and infidels. The other group, mainly represented by Sufi figures, was tolerated because expressing such opinions was seen as lovers’ disputes, which might sometimes occur between lovers without disturbing their friendly relations.

Beyond these two exceptions, Muslim theologians tried to come up with solutions that do not harm the perfect character of God. This holds true to the extent that a group of Muslim scholars, especially among Sufis and philosophers, did not see a *real* pradaox. They opined that it was irrelevant to raise the question, “how to understand or justify the presence of nasty and painful things in the light of the fact that God the Compassionate, the Merciful is the Supreme Power and that He has control over this universe?” To them, the existence of disabilities and different forms of pains and sufferings do not cause theological or ontological problems. This approach mainly prevailed within Sufi and philosophical milieus. Each of these two groups had their own method to show that the aforementioned question does not create a *real* problem. From the side of the Sufis, the most elaborate and comprehensive presentation was given by Abū Ḥāmid al-Ghazālī (d. 1111). As for philosophers, Ibn Sīnā (d. 429/1037), the most influential Muslim philosopher, will be the main focus in this respect. First of all, he seems to have been the

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Muḥammad Badr al- (2001); Abū Ghudda, ‘Abd al-Sattār (2001); Yāsīn, Muḥammad Na‘īm (2001).

first among them all to preoccupy himself with the problem of evil.<sup>127</sup> Additionally, to my knowledge, he is the main philosopher, if not the sole one, who focuses on disability within the broader framework of evil. Shams Inati's study on Ibn Sīnā's theodicy of evil is the main study upon which I depended to review Ibn Sīnā's discussions on disabilities.<sup>128</sup>

However, the majority of Muslim theologians conceded that the existence of disabilities and other forms of pains and sufferings represented a theological problem that should be handled. However, attempts to explain or solve this problem should not be at the expense of God's perfect character. Elaborating His perfect divine character in the light of pains prevalent in this life, the advocates of this trend went through heated discussions about two main sides of the character of God, each represented by a number of divine names and attributes. The first side was God's omnipotence emphasising that nothing taking place in life can escape His unlimited power. The second side was God's solicitude for the welfare of His creatures. This side shows that God takes care of His creatures and treats them with beneficence, justice, wisdom, etc. Laying more emphasis on one side than the other or trying to create a balance between the two resulted in three main approaches, termed in this study as **anti-theodicy** approach, **pro-theodicy** approach and **middle-course** approach each of which will be discussed in a separate chapter.

It is worthy to note in this regard that the categorization adopted in this regard has been reached after extensive readings. However, it is not directly quoted from one single source and thus remains mine. I have deliberately avoided a school-based categorization by dividing theologians' viewpoints on the basis of the theological school they were known to abide by. As we shall see, within almost every school, advocates of each of the trends and approaches mentioned can be traced. This holds even true for some prominent scholars such as Abū Ḥāmid al-Ghazālī (d. 1111) whose opinions in one specific source can be classified in one category whereas his opinions in other sources are to be categorized in a completely different cadre. Modern scholars in Islam can also be easily integrated within this form of categorization because they adopt an eclectically-oriented approach combining elements from different theological schools.

The first approach, termed in this study as **anti-theodicy approach**, stresses that the perfect character of God can be seen first and foremost in the first side of God's character, especially God's self-sufficiency and omnipotence. In the case of disabilities and other forms of misfortunes in life, judging God's acts in accordance with the same criteria used for judging human acts would diminish God's unlimited power and thus tarnish His perfect character. In this sense, no attempts should be done to search for wise purposes (*ḥikam*) for God's acts including pain and all what can be deemed evil. In short, theodicy cannot be

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<sup>127</sup> Inati, Shams C. (2000), p. 65.

<sup>128</sup> For an overall presentation of Ibn Sīnā's discussions on theodicying the existence of disabilities, see Inati, Shams C. (2000), pp. 67-85. For a modernized presentation of Ibn Sīnā's views on evils in general, see Muṭahharī, Murtaḍā al- (1424/2003), pp. 153-170 & 186.



practised. This approach was mainly theorised throughout the Ash‘arī theological manuals. For instance, the founder of the school, Abū al-Ḥasan al-Ash‘arī (d. 324/935-6)<sup>129</sup> wrote a chapter, in his book *al-Ibāna* (Illumination), under the title “Question concerning the torture of the infants”.<sup>130</sup> In his book, *Al-Mawāqif* (Viewpoints), the well-known Ash‘arī theologian ‘Aḍud al-Dīn al-Ījī (d. 757/1355) also wrote a whole chapter on theodicy (*ta‘līl*).<sup>131</sup> Lately, the contemporary Egyptian scholar Muḥammad al-Sayyid al-Julaynid (Cairo University) handled the issue of theodicy in the Ash‘arī school in his book on good and evil.<sup>132</sup> Finally, G. Legenhausen, (Texas Southern University, USA) wrote an article elaborating and to some extent advocating the Ash‘arī view on the theodicy.<sup>133</sup>

The second approach, termed in this study as **pro-theodicy approach**, laid more stress on the second side of God’s character especially on His justice and wisdom. The proponents of this approach tried to explain or justify the existence of evil, pain and suffering in a way that would never harm God’s justice or wisdom. They said that man, because of his freedom to act in life, is the agent of a large part of evils and pains in this life. Such evils are to be ascribed to their agent, namely, man, who is liable to do just and unjust acts. God is not responsible for these evils and cannot be questioned for their existence in our life. However, another part of pains and sufferings take place in life beyond man’s choice such as being inflicted with blindness, leprosy and other illnesses. God is responsible for these pains only and they are just and wise. They have been done by God for specific benefits and wise purposes (*ḥikam*). In this sense, the Mu‘tazila refused to call such acts “evils” and say that they are to be classified as forms of *fitna* (temptation) or *ibtīlā’* (test).<sup>134</sup> Whether disability took place as part of man’s action, other people’s action or directly by God and thus beyond the human control, there should be a specific wise purpose that can be discerned by the human intellect. In this framework, very detailed and sometimes extremely complicated attempts were done to search for these possible wise purposes. The advocates of this approach came basically from the Mu‘tazilī theological school. Broad lines of their doctrines in this respect found proponents in the circles of Twelver Shi‘ism (Shi‘a Imāmiyya) such as Ibn Bābawayh known as al-Shaykh al-Ṣadūq (d. 391/1001),<sup>135</sup> al-Shaykh al-Mufīd (d. 413/1022),<sup>136</sup> al-Sharīf al-Murtaḍā (d. 436/1044),<sup>137</sup> and al-Muṭahhar al-Ḥillī (d. 726/1325).<sup>138</sup> They all held largely

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<sup>129</sup> On him, see Watt, W. Montgomery (4) (2003), vol. 1, pp. 694 & 695.

<sup>130</sup> Ash‘arī, Abū al-Ḥasan ‘Alī b. Ismā‘īl al- (1940), pp. 112 & 113.

<sup>131</sup> Ījī, ‘Aḍud al-Dīn ‘Abd al-Raḥmān b. Aḥmad al- (1997), vol. 1, pp. 422-474.

<sup>132</sup> Julaynid, Muḥammad al-Sayyid al- (1981).

<sup>133</sup> Legenhausen, G. (1988), pp. 257-266.

<sup>134</sup> Julaynid, Muḥammad al-Sayyid al- (1981), pp. 63 & 64.

<sup>135</sup> On him, see Fyzee, Asaf A.A. (2003), vol. III, pp. 226 & 227.

<sup>136</sup> On him, see Madelung, Wilfred (2003), vol. VII, pp. 312 & 313.

<sup>137</sup> On him, see Brockelmann, Carl (2) (2003), vol. VII, p. 634.

<sup>138</sup> On him, see Jafri, S.H.M. (2003), vol. III, p. 390.

similar opinions about suffering and its compensation.<sup>139</sup> Keeping in mind that the Mu‘tazilī presentation of issues with relevance to this approach was one of the most detailed and elaborated ones throughout the Islamic history, their doctrines were taken as the main points of discussion. Cross-references to Shī‘ī sources were given just to know where to trace them and notice they are in line with the Mu‘tazilī thought. The main source which theorized and developed this approach in the Mu‘tazilī school was the well-known encyclopaedia of al-Qādī ‘Abd al-Jabbār (d. 415/1025)<sup>140</sup>, *Al-Mughnī fī abwāb al-‘adl wa al-tawhīd* (The Sufficient on Themes of Justice and Oneness) which recorded the Mu‘tazilī theology in its complete form.<sup>141</sup> Mu‘tazilī contentions, especially as elaborated in *Al-Mughnī*, on pain and suffering in general have been recently studied by the Dutch researcher Margaretha Heemskerk. She wrote her PhD dissertation on pain and compensation in the Mu‘tazilīte doctrine<sup>142</sup> which was later on published under the title *Suffering in the Mu‘tazilīte Theology*.<sup>143</sup> Heemskerk is the basic study upon which the discussions in this respect are based. As for the Shī‘ī sources, three main sources give an overall overview in this issue, namely, Ibn Bābawayh’s *Risālat al-i‘tiqād* (Treatise on Creed),<sup>144</sup> al-Shaykh al-Mufīd’s *Awā‘il al-maqālāt fī al-madhāhib wa al-mukhtārāt* (The First Treatises on Chosen Doctrines),<sup>145</sup> al-Hillī’s *Al-Bāb al-ḥadī ‘ashar* (The Eleventh Chapter).<sup>146</sup> However, the centrality of the image of God in the theology of this approach escaped the attention of Heemskerk. To compensate this shortage, two main studies were consulted while introducing viewpoints of the advocates of this approach on the perfect character of God. These two studies are *The Islamic Conception of Justice* by Majid Khadduri (1908-2007) and *God and His Attributes: Lessons on Islamic Doctrine*<sup>147</sup> by the Shī‘ī scholar, Sayyid Mujtaba Musavi Lari (b. 1314/1935).<sup>148</sup>

The third approach, termed as **middle-course approach**, tried to find a middle ground between the aforementioned two approaches. They first criticised the one-sided tendency adopted by these approaches in interpreting the perfect character of God. Within this approach, all God’s attributes were deemed as complementary rather than contradicting each other. To them, divine omnipotence should be grasped in parallel with His unmatched mercy, justice and all-wisdom. One should not be stressed at the expense of the other.

<sup>139</sup> See Fyzee, Asaf A. A. (1942); Hillī, Ḥasan b. Yūsuf b. ‘Alī b. al-Muṭahhar al- (1958); Ibn Taymiyya (1406/1985), vol. 1, pp. 129, 447, vol. 2, pp. 100, 101 & 242; Muṭahharī, Murtaḍā al- (1424/2003), p. 64; Hoover, Jon (2002), pp. 273, Shihadeh, Ayman (2006), vol. 2, p. 772; Heemskerk, Margaretha T. (2006), vol. 5, pp. 135 & 136.

<sup>140</sup> On him, see ‘Uthmān, ‘Abd al-Karīm (1968); Heemskerk, Margaretha T. (2000), pp. 36-53.

<sup>141</sup> ‘Abd al-Jabbār, al-Qādī Abū al-Ḥasan (1380-1389/1960-1969).

<sup>142</sup> Heemskerk, Margaretha T. (1995).

<sup>143</sup> Heemskerk, Margaretha T. (2000).

<sup>144</sup> Fyzee, Asaf A. A. (1942).

<sup>145</sup> ‘Ukbarī, Muḥammad b. Muḥammad b. al-Nu‘mān al- (Known as al-Shaykh al-Mufīd) (1371/1951).

<sup>146</sup> Hillī, Ḥasan b. Yūsuf b. ‘Alī b. al-Muṭahhar al- (1958).

<sup>147</sup> Lari, Sayyid Mujtaba Musavi (2003).

<sup>148</sup> On him, see Lari, Sayyid Mujtaba Musavi (2003), pp. 5-7.

As for the theodicy, they also tried to find a middle-ground by saying that behind every divine act there must be one or many wise purposes but they are not necessarily detectable all the time by the human intellect. Basing themselves mainly on the scriptural texts from the Qurʾān and Sunna on one hand and making use of rational arguments on the other, they counted a number of possible wise purposes for the existence of disabilities and other forms of suffering in life. The advocates of this approach represented the majority of early and late Muslim scholars within the circles of theologians (*mutakallimūn*) jurists (*fuqahāʾ*), traditionists (*ahl al-ḥadīth*), interpreters of the Qurʾān (*mufasssīrūn*), Sufis, early and late philosophers such as Abū al-Barakāt (d. ca. 550/1155) and a large number of the late Ashʿarites who departed from their school in this specific respect.<sup>149</sup> In his book, *Kitāb al-tawḥīd* (Book of Oneness), Abū Maṣṣūr al-Māturīdī (d. ca. 333/944)<sup>150</sup> contributed to this approach by a chapter entitled, *al-Dalīl ʿalā anna li al-ʿālam Muḥdith* (The Evidence that the Cosmos has One Who Gave It Temporal Existence). Besides al-Māturīdī, four main scholars played important roles in theorizing this approach and elaborating its doctrines. Dispersed throughout his different works, Ibn Taymiyya (d. 728/1328)<sup>151</sup> handled recurrently the issue of the theodicy and the divine acts. He issued also a well-detailed and lengthy fatwa on the theodicy.<sup>152</sup> Recently, the dispersed discussions of Ibn Taymiyya were collected and analysed in Jon R. Hoover’s PhD dissertation defended at the University of Birmingham<sup>153</sup> and published in 2007 under the title *Ibn Taymiyya’s Theodicy of Perpetual Optimism*.<sup>154</sup> Ibn al-Qayyim (d. 751/1350) also dedicated a large portion of his writings to the issue of the theodicy. His main work on this issue was *Shifāʾ al-ʿalīl fī masāʾil al-qaḍāʾ wa al-qadar wa al-ḥikma wa al-taʿlīl* (Healing the Sick on Issues of Fate, Predetermination, Wisdom and Theodicy).<sup>155</sup> The third figure in this regard was al-ʿIzz b. ʿAbd al-Salām (d. 660/1066) who wrote a book on afflictions, calamities and misfortunes (*Al-Fitan wa al-balāya wa al-mihan wa al-razāya*) in which he counted about seventeen benefits (*fawāʾid*) for them.<sup>156</sup> Noteworthy to mention in this regard is that al-ʿIzz b. ʿAbd al-Salām used the term benefits (*fawāʾid*) rather than wise purposes (*ḥikam*). This is may be because of his support of the Ashʿarī viewpoint that God cannot be questioned and that the wisdom behind His divine acts should not be investigated.<sup>157</sup> Anyhow, what al-ʿIzz termed as

<sup>149</sup> Māturīdī, Abū Maṣṣūr al- (1), pp. 135 & 136; Ibn Taymiyya (1), vol. 8, p. 89; Ibn Taymiyya (7), vol. 8, p. 377; Ibn al-Wazīr, Muḥammad b. Ibrāhīm (1987), vol. 1, pp. 187 & 188.

<sup>150</sup> On him, see Madelung, Wilfred (1) (2003), vol. VI, pp. 846 & 847.

<sup>151</sup> On him, see Bazzār, Abū Hafṣ ʿUmar b. ʿAlī b. Mūsā al- (1400/1979); Laoust, H. (1) (2003).

<sup>152</sup> Ibn Taymiyya (1), vol. 8, pp. 81-158.

<sup>153</sup> Hoover, Jon (2002). I hereby submit my deep gratitude for Jon Hoover who provided me with a copy of this dissertaion.

<sup>154</sup> Hoover, Jon (2007). Because of the late date of publication, I did not manage to consult this new version of the dissertation. Thus Hoover’s dissertation remained the main source in this study.

<sup>155</sup> Ibn al-Qayyim (1398/1977).

<sup>156</sup> Ibn ʿAbd al-Salām, al-ʿIzz (1992); Qāsimī, Jamāl al-Dīn al- (1424/2003), pp. 490-494.

<sup>157</sup> See Ibn ʿAbd al-Salām, al-ʿIzz (1), pp. 73-77.

“benefits” and was classified by the others as “wise purposes” aimed to present a logical justification for the calamities and sufferings taking place in this life. So, difference in terminology, in this respect, is not of great importance. Finally, there is the Yemeni scholar Ibn al-Wazīr (d. 840/1436) who studied the issue of theodicy in his well-known book *Īthār al-ḥaqq ‘alā al-khalq* (Preferring the True [God] to the Creatures).<sup>158</sup>

Abū Ḥāmid al-Ghazālī was a controversial figure in this regard. According to Ibn al-Wazīr, he was one of the main proponents of this middle-course approach.<sup>159</sup> Sherman Jackson (professor of Arabic and Islamic Studies, University of Michigan) also argued that that Ash‘arīs such as al-Ghazālī and later theologians did not reject rational considerations of utility but only Mu‘tazilī objectivism.<sup>160</sup> Muhammad al-Sayyid al-Julaynid (Cairo University) spoke of two Ghazālīs. The first Ghazālī was the Ash‘arī theologian who abode by the main doctrines of the Ash‘arī School and would rather belong to the anti-theodicy approach. The other Ghazālī was the free thinker who had his own independent thinking and thus spoke about the wise purposes (*ḥikam*) of the divine acts.<sup>161</sup> In response to al-Julaynid, Hoover stated that “a careful reading of al-Ghazālī’s text reveals that while purpose and causality indeed seem to pervade the discussion, the key term *‘illa* does not appear, and the text could be interpreted to exclude causality in God’s will. Also, al-Ghazālī explains that, while mercy involves pain and tenderness from the merciful, this does not apply to God whose perfection does not involve feeling pain for one in need. This fits well with the traditional Ash‘arī understanding of God.”<sup>162</sup> Hoover advocated his point by Richard Frank’s opinion that al-Ghazālī explicitly denied that God acts for a purpose (*gharaḍ*) or for compensations (*‘iwāḍ*).<sup>163</sup> To my mind, it is unfair to enshrine al-Ghazālī within the traditional Ash‘arī viewpoint concerning theodicy although he unequivocally advocated this viewpoint in some of his works. He has, as al-Julaynid indicated, expressed other viewpoints which can easily be categorized within this middle-course approach. One of the treatises attributed to al-Ghazālī deals with the divine wisdom to be traced in the created beings (*Al-Ḥikma fī makhlūqāt Allāh ‘Azz wa Jal*).<sup>164</sup> However, al-Ghazālī’s writings show that he can still be classified, as shown above, among the Sufis who adopted a no-problem approach.

In the modern time, the middle-course approach was also advocated by a number of scholars and researchers. In his book, *Fī ‘ālam al-makfūfīn* (Inside the World of the Blind), the late Egyptian scholar, Aḥmad al-Sharabāṣī (1918-1980) raised the question, why God created blindness although it is bad and disliked? Possible answers advanced by al-Sharabāṣī took about 25 pages most

<sup>158</sup> Ibn al-Wazīr, Muḥammad b. Ibrāhīm (1987), vol. 1, pp. 108-204.

<sup>159</sup> Ibid, vol. 1, p. 188.

<sup>160</sup> Jackson, Sherman A. (1996), pp. 32-32; on the same viewpoint, see also Ormsby, Eric L. (1984), p. 47.

<sup>161</sup> Julaynid, Muhammad al-Sayyid al- (1981), pp. 198-220.

<sup>162</sup> Hoover, Jon (2002), pp. 117 & 118.

<sup>163</sup> Frank, Richard (1994), p. 16.

<sup>164</sup> Ghazālī, Abū Ḥāmid al- (1327/1909), pp. 15-96.

of which were related to medical interpretations rather theological wise purposes.<sup>165</sup> The Saudi researcher Muḥammad Rabīʿ Hadī al-Madkhalī wrote his M.A. thesis on the wisdom and theodicy of the divine acts (*Al-Ḥikma wa al-taʿlīl fī afʿāl Allāh taʿālā*).<sup>166</sup> Zuhayr Muḥammad al-Zamīlī made the question, “Why did God make diseases?” a title for his book *Līmādhā jaʿala Allāh al-amrād*.<sup>167</sup> Besides these two studies, modern Muslim scholars handled the issue of theodicy while studying the broad topic of God’s fate and predestination (*qaḍāʾ* and *qadar*) such as Yūsuf al-Qaraḍāwī (b. 1926)<sup>168</sup> and Muḥammad Saʿīd Ramaḍān al-Būṭī (b. 1929).<sup>169</sup> The late Egyptian scholar Muḥammad Mutwallī al-Shaʿrāwī (1911-1988) also handled the issue of theodicy in his book on good and evil.<sup>170</sup>

Besides these figures, a huge relevant literature is available in commentaries on Qurʾān and Ḥadīth and sometimes even in juristic sources. Although there is almost no mention of the term theodicy (*taʿlīl*), the scholars discussed calamities, misfortunes and other issues with direct relevance to theodicy. If we classified this huge material as theodicy-related texts, then the statements, given by more than one researcher, on the rarity of theodicy texts and the non-centrality of this issue in Islamic thought should be taken with reservation.<sup>171</sup>

**Chapter Three (Practical Theology)** handles the question, “What should be done if someone got afflicted with disability?” In their bids to explain the existence of disabilities in the light of the powerful and merciful God, Muslim scholars were aware that their rational arguments may not bring full relief to all questioners nor bring these questions to an end. On the contrary, some of the arguments could trigger more questions on which the answers could endlessly create other questions and fall ultimately in a viscous circle. Restoring relief and maintain peaceful relations with God in such intriguing issues, as the sources indicated, one is in need of both mental satisfaction and spiritual serenity. The aforementioned theological arguments could create a sort of mental satisfaction but not necessarily spiritual serenity. Methods of attaining spiritual serenity are the main focus of this chapter.

Scholars who were engaged in writing about spiritual serenity and the methods to gain it during the times of afflictions came mainly from the mystic milieus because healing one’s soul was one of the main functions of Sufism. However, there is nothing to make us believe that means and methods mentioned below were rejected by scholars who advocated other approaches. The clearest two examples in this regard are the mystic Abū al-Qāsim al-Qushayrī (d. 465/1072) who had an Ashʿarī background<sup>172</sup> and the Muʿtazilī

<sup>165</sup> See Sharabāshī, Aḥmad al- (1375/1956), vol. 1, pp. 260-285.

<sup>166</sup> Madkhalī, Muḥammad Rabīʿ Hadī al- (1409/1988).

<sup>167</sup> Zamīlī, Zuhayr Muḥammad al- (1409/1988).

<sup>168</sup> Qaraḍāwī, Yūsuf al- (1421/2000), pp. 82-87.

<sup>169</sup> Būṭī, Muḥammad Saʿīd Ramaḍān al- (2001), pp. 188-206.

<sup>170</sup> See Shaʿrawī, Muḥammad M. al- (1995), esp. 58 & 59.

<sup>171</sup> For some of those who expressed such statements, see Watt, W. Montgomery (1979), p. 5; Ormsby, Eric L. (1984), p. 54.

<sup>172</sup> On him, see Qushayrī, ʿAbd al-Karīm al- (1968), pp. 4-8, esp. 6; Qushayrī, al- (1990), pp. i-

scholar al-Zamakhsharī (d. 538/1144)<sup>173</sup> who wrote a book, mentioned below, with relevance to our topic here.

To achieve this spiritual serenity in the case of being afflicted with calamities in general, Muslim scholars evolved two main genres of a psychology-oriented literature. These writings were meant to appease the bitter feelings of sorrow and anguish that can be caused by calamities. Some of them spoke about *‘ilāj al-muṣība* (curing the calamity).<sup>174</sup> Others wrote on *tasliyat ahl al-maṣā’ib* (consoling people with calamities).<sup>175</sup> Some writings focused on specific calamities, the most well-known of which was the death of one’s child.<sup>176</sup> Disabilities, especially blindness, did not escape the attention of writers on this topic. As a good witness in this respect, we mention titles such as *Tasliyat al-ḍarīr* (Consoling the Blind) by al-Zamakhsharī, *Ta’jīl al-bishāra li man ṣabar ‘alā dhahāb al-baṣar* (Accelerating the Good Omen for Those Who have Patience upon Losing their Eyesight) by the Damascene scholar Muḥammad b. Ṭulūn (1475-1546)<sup>177</sup> and *Tasliyat al-‘amā ‘an baliyyat al-‘amā* (Consoling the Blind from the Affliction of Blindness) by the Ḥanafī jurist Mulla ‘Alī b. Sulṭān al-Harawī al-Qārī (d. ca. 1605).<sup>178</sup> The Meccan scholar Ibn Fahd (d. 1547) concluded his book on people with disabilities with a chapter on the rewards and blessings accorded to those afflicted with calamities.<sup>179</sup>

Besides this genre whose sources are mostly non-extant or either unavailable in printed form, there was the broad mystic genre which is also of direct relevance to the topic of gaining spiritual relief in the case of calamities. In this broad mystic genre, Muslim scholars considered calamities and afflictions as one of the obstacles that the servant (*‘abd*) undergoes in his travel to the Creator. They elaborated a number of states (*aḥwāl*) and stations (*maqāmāt*) that one should pass by. Three main moral attitudes have been recurrently mentioned as necessary tools to overcome the repercussions of afflictions and tribulations, namely servitude (*‘ubūdiyya*), patience (*ṣabr*) and gratitude (*shukr*). In the first genre, patience and to a lesser extent gratitude were the focal points. To my knowledge, servitude did not play an important role in that genre.

In his well-known *Al-Risāla fī ‘ilm al-taṣawwuf* (Epistle on Sufism) regarded by many as “one of the most comprehensive compendiums of Ṣufī thought” and the “Bible of Sufism”<sup>180</sup> Abū al-Qāsim al-Qushayrī (d. 465/1072) divided the Sufī path into a) states (*aḥwāl*) and b) stations (*maqāmāt*); the former are

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xvii, esp. iv.

<sup>173</sup> Ḥusayn, ‘Abd al-Razzāq (1420/1999), p. 19. On the author, see Ibn al-‘Imād (1), vol. 2, pp. 118-120; Dhahabī, Muḥammad b. Aḥmad b. ‘Uthmān al- (1413/1992), vol.20, pp. 151-156.

<sup>174</sup> See for instance, Ibn al-Qayyim (1407/1986), vol. 4, pp. 188-196

<sup>175</sup> Manbijī, Muḥammad b. Muḥammad al- (1347/1929).

<sup>176</sup> See for instance, Ibn Nāṣir al-Dīn, Muḥammad b. ‘Abd Allāh (1420/1999); Suyūṭī, Jalāl al-Dīn al- (1304/1880). For a Shī‘ī source on the same topic, see ‘Alamī, Zayn al-Dīn Jabā’ī al- (1923).

<sup>177</sup> Ibn Fahd (d. 954/1547), folio 15a; Ghaly, Mohammed M.I. (2005-2006), p. 21.

<sup>178</sup> There two editions available viz., Qārī, ‘Alī b. Sulṭān b. Muḥammad al-Harawī al- (1993); Qārī, ‘Alī b. Sulṭān b. Muḥammad al-Harawī al- (1994). On the author, see Ziriklī, KHayr al-Dīn al- (2002), vol. 5, p. 12.

<sup>179</sup> Ibn Fahd (d. 954/1547), folios 56b-61a.

<sup>180</sup> Snir, Reuven (1999), p. 132.

always a gift from God whereas the latter can be reached, to a certain extent, by one's own striving. However, both were indispensable in the Sufi path.<sup>181</sup> Servitude (*ʿubūdiyya*) was the first state in al-Qushayrī's presentation,<sup>182</sup> which serves here as the starting point for the seekers of spiritual relief among those afflicted with disabilities or other forms of suffering. Ibn Taymiyya (d. 728/1328) also wrote a short epistle on this topic entitled *Risāla fī al-ʿubūdiyya* (Epistle on Servitude).<sup>183</sup> Although he did not classify it as one of the states, the Ḥanbalī theologian and jurist, Ibn al-Qayyim (d. 751/1350) studied this term extensively in his Sufi treatise and opined that all stations and states that one has to pass by are but branches and reflections of servitude. To him, servitude is also the main starting point.<sup>184</sup> Currently, this concept is still vivid among the Sufi orders such as the Shādhiliyya which is mainly based on deep immersion in this state of *ʿubūdiyya*.<sup>185</sup> Recent interest in this topic is clear from the comments, abridgements and elaborations made by modern Muslim scholars of the viewpoints of Ibn Taymiyya and Ibn al-Qayyim in this regard.<sup>186</sup>

According to al-Qushayrī, patience and gratitude belong to the stations.<sup>187</sup> These two moral attitudes were classical topics recurrently presented in almost every mystic treatise.<sup>188</sup> The most comprehensive treatment of these two moral attitudes comes from the hand of Ibn al-Qayyim who dedicated a whole book to both topics.<sup>189</sup> This book was the main source in the discussions to follow on these two points. Patience and gratitude are currently fashionable subjects for religious sermons (*khuṭab*) which are available as audiotapes and sometimes in the form of printed books.<sup>190</sup> One of the well-known books written recently on the topic of patience is that of Yūsuf al-Qaraḍāwī under the title *Al-Ṣabr fī al-Qurʾān* (Patience in the Qurʾān).<sup>191</sup>

**Chapters Four** till **Eight**, dedicated to **Islamic jurisprudence**, focus on what can be termed in our present time as the rights of people with disabilities. The main question can be formulated as, “what is the social and financial position of people with disabilities as recorded in the juristic sources of Islam?” Aspects chosen to fathom out this position were mainly based on the availability of relevant information in juristic sources on one hand and their centrality for making the life of people with disabilities more tolerable on the other. It will be noticed also that the different aspects of the social and financial position of people with disabilities as discussed in this part are also central in modern

<sup>181</sup> Ibid, p. 137.

<sup>182</sup> Ibid, p. 136.

<sup>183</sup> Ibn Taymiyya (1401/1981).

<sup>184</sup> See Ibn al-Qayyim (1393/1973), vol. 1, pp. 97-110 & 123.

<sup>185</sup> Lory, P. (2003), vol. IX, pp. 172-175.

<sup>186</sup> See for instance, Rājiḥī, ʿAbd al-ʿAzīz al- (1420/199); Ibn al-Qayyim (1411/1991).

<sup>187</sup> See Qushayrī, al- (1990), pp. 131-139, 147-156.

<sup>188</sup> See for instance, Ghazālī, Abū Ḥamid, al- (1), vol. 4, pp. 60-141; Harawī, ʿAbd Allāh Al-Anṣārī al- (1962), pp. 49-51, 53 & 54; Ibn al-Qayyim (1393/1973), vol. 2, pp. 152-170, 242-258.

<sup>189</sup> Ibn al-Qayyim (1). An abridged translation of this book was recently composed by Nasiruddin al-Khattab, see Ibn al-Qayyim (1998).

<sup>190</sup> See for instance, Khālīd, ʿAmr (2002).

<sup>191</sup> Qaraḍāwī, Yūsuf al- (1410/1989).

discussions on people with disabilities especially as reflected in the UN documents in this respect. Although all five chapters examining juristic discussions with relevance to people with disabilities cover both their social and financial position, **Chapter Four** can be seen as focusing more on the social side whereas the other four chapters focus more on the financial side.

**Chapter Four (Human Dignity of People with Disabilities)** fathoms out whether disabilities injure, harm or diminish the dignity guaranteed in Islam for human beings in general. Dignity of people with disabilities is very central at the moment in discussions on the rights of people with disabilities. As early as 1975, the UN Declaration on the Rights of Disabled persons stressed that, “Disabled persons have the inherent right to respect for their human dignity. Disabled persons, whatever the origin, nature and seriousness of their handicaps and disabilities, have the same fundamental rights as their fellow-citizens of the same age, which implies first and foremost the right to enjoy a decent life, as normal and full as possible.”<sup>192</sup> The latest UN document in this regard, Convention on the Rights of Persons with Disabilities, declares in its first principle that “the purpose of the present Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.”<sup>193</sup>

Broadly speaking, early and modern scholars were unanimous on the fact that dignity has been a proven right conferred by God on every human being irrespective of colour, race or religion. For instance, al-Alūsī (d. 1270/1854) says that “everyone and all members of the human race, including the pious and the sinner are endowed with dignity, nobility and honour whose magnificence cannot be exclusively expounded and identified.”<sup>194</sup> The purport of this sentence can also be encountered in statements attributed to the Companions of the Prophet and modern scholars as well.<sup>195</sup> Speaking about the dignity of people with disability in Islam, previous studies referred all the time to this generic dignity designated for every human being, including of course those with disability.<sup>196</sup> Discussions of Muslim jurists in this regard, which were sometimes heated ones, took place on the dignity of people with disabilities in particular. This dignity is investigated on the theoretical and practical level.

**The theoretical level** studies physiognomy of which the main purport was that a physical defect or deformity reflects a similar one in one’s soul. In other words, people with bad or ugly outlook have a similar character. In this framework, people with physical disabilities can be easily discriminated and offended because of their apparent physical abnormality. Concerning

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<sup>192</sup> Declaration on the Rights of Disabled Persons (1975).

<sup>193</sup> Convention on the Rights of Persons with Disabilities (2006).

<sup>194</sup> Alūsī, Abū al-Faḍl Maḥmūd al-(1), vol. 15, p. 117, quoted by Kamali, Muhammad Hashim (2002), p. 2.

<sup>195</sup> See Kamali, Muhammad Hashim (2002), pp. 2-9

<sup>196</sup> See for instance, Quḍāt, Muṣṭafa al- (1406/1985), pp. 1 & 2; ‘Abd Allāh, Laylā Muḥammad (1418/1997), pp. 25-32.



physiognomy in general, the late Youssef Mourad (d. 1902-1966)<sup>197</sup>, the late ‘Abd al-Karīm ‘Adiyy (1917-1985),<sup>198</sup> Robert Hoyland (University of St. Andrews)<sup>199</sup> and Antonella Ghersetti (Universita Ca’ Foscari, Venice)<sup>200</sup> are the three main modern researchers who made laudable efforts in studying physiognomy as a topic in Arabic and Islamic literature.<sup>201</sup> Recently Simon Swain edited an insightful study on Polemon’s physiognomy from classical antiquity to Medieval Islam.<sup>202</sup> Beyond the cursory references to juristic sources in the aforementioned studies, combining between physiognomy on one hand and the image of people with disabilities in juristic circles on the other hand was a completely unstudied topic prior to this dissertation. Thus, this chapter is a bid to open up this new dimension.

The focus in this regard was on the standpoints of Muslim jurists towards physiognomy and its influence on the dignity of people with disabilities within two main legal schools, namely, the Shāfi‘ī and the Ḥanbalī Schools. It was just the available information that has imposed this choice. Outside these two schools, pertinent information was scanty and within the Ḥanafī School it was almost absent. Moreover, such information did not make clear what type of *firāsa* was meant in such discussions. However, a note in passing was given at the end of the chapter to clarify the standpoints of other schools in the light of the available information.

As for the Shāfi‘ī School, available sources indicate clearly that a number of Shāfi‘ī jurists were impressed by the newly-introduced science of Greek physiognomy and its practical benefits. They were advocates of this new science and wrote important books in this field where they did not fail to find arguments from the Qur’ān and Sunna defending this science or at least its main premise, viz., “inference from physical makeup about nature/disposition/character” (*al-istidlāl bi al-khalq ‘alā al-khuluq*).<sup>203</sup> One of

<sup>197</sup> On him, see ‘Adiyy, ‘Abd al-Karīm (1982-1983), vol. 57, issue, 4, pp. 707, 708 & 722-724.

<sup>198</sup> He was a member of the Academy of the Arabic Language in Damascus during the period 1979-1985. For more information, see Fahhām, Shākir al- (1980), vol. 55, issue, 3, pp. 580-600; Naffākh, Ahmad Rātib al- (1985), vol. 60, issue, 3, pp. 625 & 626. He expressed his views on *firāsa* in his extensive book review of the Arabic translation of Youssef Mourad’s *La Physiognomonie arabe et le Kitāb al-Firāsa de Fakhr Al-Dīn Al-Rāzi*, see ‘Adiyy, ‘Abd al-Karīm (1982-1983), vol. 58, issue, 1, p. 355.

<sup>199</sup> For more information, see <http://www.st-andrews.ac.uk/academic/history/arabic/staff/hoyland.shtml>

<sup>200</sup> For more information, see [http://www.unive.it/nqcontent.cfm?a\\_id=415&persona=000943&vista=pubb\\_sir](http://www.unive.it/nqcontent.cfm?a_id=415&persona=000943&vista=pubb_sir)

<sup>201</sup> Mourad, Youssef (1939); ‘Adiyy, ‘Abd al-Karīm (1982-1983), vol. 57, issue, 4, pp. 707-728, vol. 58, issue 1, pp. 343-365, vol. 58, issue 2, pp. 161-193, vol. 58, issue, 3, pp. 570-631; Ghersetti, Antonella (1996); Ghersetti, Antonella (1999); Ghersetti, Antonella & Swain Simon (2007); Hoyland, Robert (2005); Hoyland, Robert (2007); Hoyland, Robert (1) (2007). See for instance, ‘Adiyy, ‘Abd al-Karīm (1982-1983); vol. 57, issue 4, p. 709; Porter, Martin (2005), p. 61; Hoyland, Robert (2005), p. 361, esp. note 4. For some titles on this topic which are not mentioned by Holyland, Autuori, A. (1983), no. 43, pp. 43-60; Ghersetti, Antonella (1996); Ghersetti, Antonella (1999), esp. pp. iii-xxvii.

<sup>202</sup> Swain, Simon (ed.) (2007).

<sup>203</sup> For a detailed presentations of these argumentations, see Mourad, Youssef (1939), Rāzi, Fakhr

the early texts, which can be an allusion to this premise, is written by the Shāfi‘ī prolific scholar, Abū Ḥāmid al-Ghazālī (d. 505/1111), “The exterior form that is attractive to look at is the surest indication of a virtuous soul, for the light of the soul, when it fully shines, would penetrate the body. That is because the external appearance (*mazhar*) and the inner nature (*makhbar*) are most often inseparable. This is why the authorities on *firāsa* occupy themselves first with the physical looks when getting to know the internal states of people.”<sup>204</sup> Another context in which al-Ghazālī handled *firāsa* was his comments on Muslim philosophers such as Ibn Sīnā (Avicenna) the first to incorporate physiognomy *firāsa* in the Greek sense in the recognized Islamic sciences. In his *Maqāṣid al-falāsifa* (Objectives of the Philosophers) al-Ghazālī mentioned the categorization of Ibn Sīnā but in a different order and with committing some sciences including *al-firāsa*.<sup>205</sup> In *Tahāfut al-falāsifa* (Incoherence of the Philosophers), al-Ghazālī mentioned the categorization of sciences including *firāsa* in the Greek sense. Al-Ghazālī’s comment was that “the Sacred Law does not require a dispute over them except on a few points which we have mentioned”.<sup>206</sup> None of the critical points raised by al-Ghazālī tackled *firāsa*.<sup>207</sup> A list of the important names who wrote discrete books or treatises on this science would include Fakhr al-Dīn al-Rāzī (d. 606/1209)<sup>208</sup>, Shams al-Dīn al-Dimashqī (d. 727/1327), Ibn al-Durayhim al-Mawṣilī (d. 762/1360)<sup>209</sup> and Zayn al-‘Ābidīn al-Ghumrī (d. 970/1562).<sup>210</sup>

The main point in this regard is a number of “physiognomic” statements ascribed to al-Shāfi‘ī (d. 205/820) which are full of offending and discriminatory remarks. The attempt here is to check the authenticity of these statements and see if they penetrated the fiqh manuals.

Concerning the Ḥanbalī School, viewpoints of four well-known Ḥanbalī jurists are discussed. Viewpoints of Ibn al-Jawzī (d. 597/1200)<sup>211</sup> and Ibn al-Qayyim (d. 751/1350)<sup>212</sup> are presented under the heading “paradoxical standpoints” because their viewpoints, as recorded in their own sources, were sometimes advocating the purport of physiognomy and other times contradicting it. Viewpoints of Ibn Taymiyya (d. 728/1328)<sup>213</sup> and Zayn al-Dīn

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al-Dīn al- (1939), pp. 5 & 6; Ansārī, Abū Ṭālib al- (1332/1914), pp. 2 & 3; Ghumrī, Zayn al-‘Ābidīn Muḥammad b. Muḥammad al- (1) (d. 970/1562), fol. 2a-4b; Ibn al-Akfānī (1989), p. 417; Hoyland, Robert (2005), pp. 363-365.

<sup>204</sup> Ghazālī, Abū Ḥāmid al- (1), vol. 4, p. 105; a bit different version of English translation of this passage appears in Hoyland, Robert (2005), p. 362.

<sup>205</sup> Ghazālī, Abū Ḥāmid al- (2), pp. 134-140; Mourad, Youssef (1939), p. 24; ‘Adiyy, ‘Abd al-Karīm (1982-1983), vol. 57, issue, 4, pp. 713 & 725.

<sup>206</sup> Ghazālī, Abū Ḥāmid al- (3), p. 232; Ghazālī, Abū Ḥāmid al- (1958), p. 180.

<sup>207</sup> Ghazālī, Abū Ḥāmid al- (3), p. 234; Ghazālī, Abū Ḥāmid al- (1958), p. 181.

<sup>208</sup> Rāzī, Fakhr al-Dīn al- (1939).

<sup>209</sup> Khalifa, Ḥājī (1412-1992), vol. 2, p. 997.

<sup>210</sup> Ghumrī, Zayn al-‘Ābidīn Muḥammad b. Muḥammad al- (1) (d. 970/1562); Ghumrī, Zayn al-‘Ābidīn Muḥammad b. Muḥammad al- (d. 970/1562).

<sup>211</sup> On him, see Laoust, H. (3) (2003), vol. III, pp. 751 & 752.

<sup>212</sup> Laoust, H. (3) (2003), vol. III, pp. 821 & 822.

<sup>213</sup> On him, see Bazzār, Abū Hafṣ ‘Umar b. ‘Alī b. Mūsā al- (1400/1979); Laoust, H. (1) (2003).

Ibn Rajab (d. 795/1393)<sup>214</sup> are presented under the heading “counterpoise-trials” in the sense that their viewpoints balanced, at least within the Ḥanbalī School, the paradoxical standpoints expressed by Ibn al-Jawzī and Ibn al-Qayyim.

**The practical level** attempts to give the issue of the dignity of people with disabilities a practical touch. For instance, would writing a book enumerating prominent figures with disabilities throughout history be seen by a jurist as breaching the dignity of those people? If so, what would be his reaction? A 16<sup>th</sup> century book entitled *Al-Nukat al-zirāf fī man ibtuliya bi al-‘āhāt min al-ashrāf* (The Cute Anecdotes on Luminaries Afflicted with Disabilities), which is still in manuscript form, answered these questions in reality. This book triggered vigorous debates that continued from its appearance in 1541 until 1543. By studying this work, this dissertation unfolded this hitherto unstudied work and focused on the two-year debate between the author of the book (Ibn Fahd) and a well-known contemporaneous jurist (Ibn Ḥajar al-Haytamī). It is to be noted that the debate went beyond these two figures to include damaging a book and the issuing of various fatwas from different Islamic cities supporting the author of the book.

To unfold this material, besides the manuscript of Ibn Fahd, we made use of the two-page fatwa published in the fatwa collection of Ibn Ḥajar entitled *Al-Fatāwā al-fiqhiyya al-kubrā* (Grand Juridical Fatwas).<sup>215</sup> *Al-Zawājir ‘an iqtirāf al-kabā’ir* (Restraints against Committing Grave Sins) where Ibn Ḥajar handles the theme of *ghība* (backbiting)<sup>216</sup> would be of benefit for comparative reasons. That is because, as indicated by the author in the introduction, *Al-Zawājir* was written after 1546, i.e. at least five years after issuing the fatwa under discussion.<sup>217</sup>

As stated above, the remaining five chapters focus more on the financial position of people with disabilities by elaborating a number of aspects each of them occupying a separate chapter. These aspects are deemed financial in the sense that enjoying them would bring or cost money in the normal course of events. Keeping in view that work is the main financial revenue which brings money; juristic discussions on the employability of people with disabilities were the starting point in this regard and thus are the topic of **Chapter Five**. Because disability is, normally speaking, the main obstacle to find a suitable job, possibilities of medical treatment for people with disabilities is fathomed out from a juristic perspective in **Chapter Six**. **Chapter Seven** and **Eight** discuss the overall theme of financial security in the case of being unable to achieve any of

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<sup>214</sup> He is known to be the last great representative of medieval Ḥanablism, see Laoust, H. (2003), vol. III, p. 822; Laoust, H. (2) (2003), vol. III, p. 161.

<sup>215</sup> Haytamī, Shihāb al-Dīn Aḥmad b. Muḥammad b. Ḥajar al- (1403/1983), vol. 4, pp. 82-83.

<sup>216</sup> Haytamī, Shihāb al-Dīn Aḥmad b. Muḥammad b. Ḥajar al- (1994), pp. 8-33.

<sup>217</sup> For further information on this figure, see Haytamī, Shihāb al-Dīn Aḥmad b. Muḥammad b. Ḥajar al- (1403/1983), vol. 1, pp. 2-5; Ibn al-‘Imād (1), vol. 4, p. 370-72; Hīla, Muḥammad Ḥabīb al- (1994), pp. 197-213; Schacht, J. & C. van Arendonk (2003), vol. III, pp. 778b-779b. For the case between him and Ibn Ziyad, see Ibn Ḥajar al-Haytamī, Haytamī, Shihāb al-Dīn Aḥmad b. Muḥammad b. Ḥajar al- (1403/1983), vol. 3, pp. 2-38.

the first two rights. In other words, how can such a person with a disability still enjoy financial security if he/she cannot work and his disability cannot be treated?

By discussing employment, **Chapter Five** handles one of the fundamental rights of people with disabilities. According to the International Labour Organization (ILO), work of decent quality is the most effective means of escaping the vicious circle of marginalization, poverty and social exclusion.<sup>218</sup> The United Nations report published in August 2006 states that unemployment among the disabled is as high as 80% in some countries. Often employers assume that persons with disabilities are unable to work. However, an estimated 386 million of the world's working-age people are disabled.<sup>219</sup> This large-scale prevailing unemployment costs the global economy an estimated 1.9 trillion US dollars per year.<sup>220</sup> ILO appeals that barriers which disabled people face in getting jobs and taking their place in society can and should be overcome through a variety of policy measures, regulations, programmes, and services.<sup>221</sup> In this vein, the latest UN Convention on the Rights of People with Disabilities, article 8, asks for promoting the recognition of the skills, merits and abilities of persons with disabilities and of their contributions to the workplace and the labour market.<sup>222</sup> The Optional Protocol of this convention opened for signature by all states and by regional integration organizations at United Nations Headquarters in New York on March 30, 2007. The list of signatories includes a number of Islamic countries such as Algeria, Egypt, Turkey, Morocco, Sudan and Yemen.<sup>223</sup>

As for Islamic sources, we find that *ʿamal*, the most well-known equivalent now for “work”, is one of the most repeated words in the Qurʾān. The different derivatives of this word are mentioned almost 330 times in the Qurʾān. If we count the references to the notion of work without being limited to the term *ʿamal*, the aforementioned number will be easily doubled.<sup>224</sup> However, this Qurʾanic term which is now standardised in modern Islamic and Arabic literature speaking about work, work opportunities and rights of workers<sup>225</sup> does not help a lot to trace the juristic discussions with relevance to this topic. The two chapters entitled “*ijāra*” and “*jiʿāla*” in classical fiqh manuals represent the main door to trace relevant juristic discussions on employability of people with disabilities. After a general introduction about these two terms, the chapter

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<sup>218</sup>[http://www.ilo.org/global/Themes/Skills\\_Knowledge\\_and\\_Employability/DisabilityandWork/lang--en/index.htm](http://www.ilo.org/global/Themes/Skills_Knowledge_and_Employability/DisabilityandWork/lang--en/index.htm) (accessed June 15, 2007).

<sup>219</sup> Convention on the Rights of People with Disabilities (2006), p. 2

<sup>220</sup> International Labour Organization (2006).

<sup>221</sup> [http://www.ilo.org/global/Themes/Skills\\_Knowledge\\_and\\_Employability/DisabilityandWork/lang--en/index.htm](http://www.ilo.org/global/Themes/Skills_Knowledge_and_Employability/DisabilityandWork/lang--en/index.htm) (accessed June 15, 2007).

<sup>222</sup> *Draft Resolution: Convention on the Rights of Persons with Disabilities* (2006), p. 10.

<sup>223</sup> For a full list of the of signatory states and regional integration organizations, see <http://www.un.org/esa/socdev/enable/conventionsign.htm>

<sup>224</sup> Bannā, Jamāl al- (1985).

<sup>225</sup> See for instance, Qurashī, Bāqir, Sharīf al- (1402/1982); ʿAwad, al-Sayyid Ḥanafī (1998); Baqarī, Aḥmad Māhir al- (1998); Kharsān, Muḥammad Hādī al- (2002).

reviews the juristic discussion on employing people with disabilities in four jobs which are always associated with high prestige especially in religious milieus. The list would include the positions of muezzin (one who makes call or *adhān* for prayer), *imām* (one who leads the ritual prayer), judge and the chief leader of the state.

**Chapter Six** reviews the juristic sources searching for viewpoints and attitudes towards treating disabilities. Two main methods are traced. The first method, termed in juristic sources as “physical medicine”, is based on using medicines and drugs as known within the realm of medical science at the present time. The second method, called “spiritual medicine”, makes use of specific religious formulae including texts from the Qur’ān, words ascribed to the Prophet of Islam, etc. This chapter gave a detailed overview of these two methods within Islamic jurisprudence, the attitudes of Muslim jurists towards these two methods and finally “treatments” developed within each method to prevent the occurrence of disability or to cure it.

In the midst of the immense literature available on medicine in Islam,<sup>226</sup> one can hardly find something specific on treating disabilities. The only book I am aware of on this topic is *Al-I‘āqa fī al-turāth al-‘arabī al-islāmī* (Disability in the Arabic Islamic Literature) which collected the scattered sections and information on different mental and physical disabilities in medical sources written by early Muslim physicians.<sup>227</sup> Mental disabilities might be more fortunate mainly because of the writings of Michael Dols (d. 1989).<sup>228</sup> Studies which handled disability within Islamic jurisprudence (*fiqh*) are almost silent on the issue of the treatment of these disabilities.<sup>229</sup> Muṣṭafa al-Quḍāt (Jordan University) could be the main exception by his reference, under the heading “the right of people with disabilities to live”, to two main points, viz., abortion and transplanting amputated organs.<sup>230</sup> The same points are discussed by Vardit Rispler-Chaim (Haifa University) in *Islamic Medical Ethics in the Twentieth Century*.<sup>231</sup> The present chapter, by studying the opinions within early and modern Islamic jurisprudence on different methods of treating disabilities, tackles an almost non-trodden field in modern literature.

Bearing in mind the possibility of being neither able to find a paid job nor to cure the disability, **Chapters Seven** and **Eight** focus on the means of achieving financial security for this group of people. These two chapters are based mainly on information available in my M.A. thesis, *The Financial Rights of People with Disabilities*, which collected sporadic discussions of early and modern jurists

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<sup>226</sup> For a general overview, see Hamarneh, Sami (1964); Ebied, Rifaat Y (1971); Agha, Zouhir M. (1983); Savage-Smith, Emilie et al (2003), vol. X, pp. 459-461.

<sup>227</sup> See ‘Ajūba, Mukhtār Ibrāhīm et al (1417/1996).

<sup>228</sup> See for instance, Dols, Michael W. (1987); Dols, Michael W. (1992).

<sup>229</sup> See for instance, Quḍāt, Muṣṭafa al- (1406/1985); Kīlānī, Sarī Zayd al- (1); Rispler-Chaim, Vardit (2007).

<sup>230</sup> Quḍāt, Muṣṭafa al- (1412/1992), pp. 45 ff & 67-71.

<sup>231</sup> Rispler-Chaim, Vardit (1993), pp. 7-18 & 28-43. As the title of the book indicates, the topic of the whole book, and this goes also for the few discussions with relevance to disability, is limited to the twentieth century.

throughout many and different sources. However, the previously mentioned modern studies on people with disabilities were of great benefit in this chapter.

Surveying the juristic sources shows that if disability was a barrier to find a job and if this disability could not be cured, ending up in a miserable destituteness should not be the third option. These sources presented a number of financial revenues through which this group of people can afford their needs. In this chapter, five main financial revenues are in focus. Failing to fulfil the financial needs of a person with disability within the family circle, society and state still have their own roles in securing financial security for people with disabilities.

**Chapter Seven** reviews the main financial revenues within one's family through which the financial needs of people with disabilities can be afforded. As a form of social solidarity among the family members, maintenance (*nafaqa*) is incumbent upon the well-off members in order to support the poor members of the family. People with disabilities such as parents, children, wives and relatives are entitled to receive *nafaqa* from the rich members of the family. As family members, people with disabilities can still enjoy financial support from a bequest (*waṣīyya*), or family endowment (*waqf ahli*). Detailed juristic discussions on the regulations of these three financial revenues are elaborated focusing on those with relevance to people with disabilities.

**Chapter Eight** discusses two main financial revenues which people with disabilities can benefit from as members of society. These two revenues are welfare endowment (*waqf khayrī*) and *zakāt*. These two are supposed to fulfil the financial needs of people with disabilities. In case they are not sufficient, jurists discussed whether extra financial obligations can be imposed on the rich to fill in this financial gap. Relevant juristic discussions are elaborated in detail in this chapter.

## 1.6 Terminology Used

Approaching Islamic sources to search for relevant material on “disability” is practically impossible without understanding the terminology used.

Information available in Islamic sources indicates that using precise and non-offensive terminology was a point of consideration in Muslim milieus. It was related, for instance, that some of the Companions of the Prophet called a person with mental insanity “*majnūn* (insane)” in a context that could indicate contempt. Thereupon, the Prophet, in a bid to restate the term, is reported to have said, “This [man] is *muṣāb*, (sick or ill). *Junūn* (insanity) comes [only] as a result of constant disobedience of God – The Almighty.”<sup>232</sup> In the modern time, changes in terminology reflect a different logic of the understanding of disability as a phenomenon. That is why it has undergone an unremitting process of revisions.<sup>233</sup>

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<sup>232</sup> Qaysarānī, Muḥammad b. Ṭāhīr al- (1415/1994), vol. 1, p. 679; Ḥusaynī, Ibrāhīm b. Muḥammad al- (1401/1980), Ḥadīth No. 692, vol. 1, p. 260; Abū Ghudda, ‘Abd al-Sattār, (1411/1991), p. 227; Ibn Ḥamza, Muṣṭafā (1414/1993), p. 18.

<sup>233</sup> The International Classification of Impairments, Disabilities and Handicaps (ICIDH), 1980

### 1.6.1 English Usage

There are two main stages to be observed in the development of the English terminology used in this regard. The first stage is represented by the International Classification of Impairments, Disabilities and Handicaps (ICIDH) which was first published by the World Health Organisation for trial purposes in 1980. This classification adopted three main terms, viz., impairment, disability and handicap. Impairment was used to mean “any loss or abnormality of psychological or anatomical structure or function.” Disability was interpreted as “any restriction or lack (resulting from an impairment) of ability to perform an activity in the manner or within the range considered normal for a human being.” Finally, handicap was defined as “a disadvantage for a given individual, resulting from an impairment or disability, that limits or prevents the fulfilment of a role that is normal, depending on age, sex, social and cultural factors, for that individual.”<sup>234</sup> Commenting on these definitions, Deborah Kaplan (Director of the World Institute on Disability) said that handicap is therefore a distortion of the relationship between disabled persons and their environment. It occurs when they encounter cultural, physical or social barriers, which prevent their access to the various systems of society that are available to other citizens.<sup>235</sup>

After these three terms, a new stage was presented by the International Classification of Functioning, Disability and Health (ICF). This new classification replaced the old one after systematic field trials and international consultation over years and had been finally endorsed by the fifty-fourth World Health Assembly for international use on May 22, 2001 (resolution WHA54.21).<sup>236</sup> New terms were used in this classification with specific meanings that differed from everyday usage and were intended to allow positive experiences to be described.<sup>237</sup>

In the 2001 version of ICF, “disability” was defined as an umbrella term for impairments, activity limitations and participation restrictions. It denoted the negative aspects of the interaction between an individual (with a health condition) and that individual’s contextual factors (environmental and personal factors).<sup>238</sup> Again the main items of this definition were further defined as follows:

*Impairment* is “a loss or abnormality in body structure or physiological function (including mental functions).” Abnormality here is used strictly to

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that has been revised and thus replaced by the International Classification of Functioning, Disability and Health (ICF), 2001 adds credit to this fact. See also Devlieger, Patrick J. (1999), p. 346.

<sup>234</sup> Beneken, M.M. & J.M.S. Hendriks (1997), p. 5; *U.N. Decade of Disabled Persons: 1983-1992*, 1983. World Programme of Action Concerning Disabled Persons. New York: United Nations.

<sup>235</sup> See <http://graham.main.nc.us/~bhammel/INS/disab.html> & <http://www.accessiblesociety.org/topics/demographics-identity/dkaplanpaper.htm>

<sup>236</sup> World Health Organization (2001), p. 3.

<sup>237</sup> Ibid.

<sup>238</sup> Ibid, p. 213.

refer to a significant variation from established statistical norms (i.e., as a deviation from a population within measured standard norms) and should be only used in this sense.

*Activity limitations*<sup>239</sup> are “difficulties that an individual may have in executing activities. An activity limitation may range from slight to a severe deviation in terms of quantity or quality in executing the activity in a manner to the extent that is expected of people without the health condition.”

*Participation restrictions*<sup>240</sup> are “problems an individual may experience in involvement in life situations. The presence of a participation restriction was determined by comparing an individual’s participation to that which is expected of an individual without disability in that culture or society.”<sup>241</sup>

Despite all these collective efforts exerted by the WHO, there is still no consensus among specialists on either the preferable or the objectionable terminology.<sup>242</sup> For instance, expressions such as “cripple” and “gimp” have gone out of favor within the disabled community because of their negative connotations of passivity and the implication that impairment is the primary identifiable attribute. Nonetheless, some people with disabilities continue to use “cripple” as a rhetorical device.<sup>243</sup> Also, euphemisms for persons with disabilities such as “differently abled”, “physically challenged” and “handicapable” have been rejected by some people arguing that they are verbal garbage describing everyone and no one.<sup>244</sup>

Rispler-Chaim was right when she pointed out that quarrels around the right term or definition for “what is disability?” or “who are people with disabilities?” are not only semantic in nature. Political, economic and cultural dimensions can also play crucial roles in this regard. For instance, being classified as a person with disability in many societies and countries today would entail social and legal alleviations and economic assistance from the state, either as direct financial support or as discounted services offered to this category of people. What is and is not viewed as disability, Rispler-Chaim added, depends on cultural criteria.<sup>245</sup> The same holds true for terminology, the terms seen as offending in a specific time or specific place can be welcomed in other times or other places. Thus relativism remains the dominant factor in all terms and definitions used in this field.

In this study, the first person language, i.e., “persons with disabilities” is the most frequent used in this study. That is because it is the phrase acceptable to most people with disabilities. Moreover, this usage underscored the conviction

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<sup>239</sup> “Activity limitations” replaces the term “disability” used in the 1980 version of ICIDH. See World Health Organization (2001), p. 213, fn. 18.

<sup>240</sup> “Participation restrictions” replaces the term “handicap” used in the 1980 version of ICIDH. See World Health Organization (2001), p. 213, fn. 19.

<sup>241</sup> World Health Organization (2001), p. 213.

<sup>242</sup> Stein, Scott, [http://www.wfthecoliseum.com/articles/sticks%20and%20stones/crippled\\_words.html](http://www.wfthecoliseum.com/articles/sticks%20and%20stones/crippled_words.html)

<sup>243</sup> Eiesland, Nancy (1994), p. 26; Mairs, Nancy (1986), pp. 10 & 11.

<sup>244</sup> Eiesland, Nancy (1994), p. 26.

<sup>245</sup> Rispler-Chaim, Vardit (2007), p. 2



that an individual's disability is just one of many personal characteristics, rather than being synonymous or coexistent with that person's self.<sup>246</sup> In recent civil rights legislation, including the American Disabilities Act of 1990, the expression "persons with disabilities" was employed most regularly. In the literature of the disability rights movement, this designation is also the prominent one.<sup>247</sup>

### 1.6.2 Arabic Usage

The most common Arabic equivalents used now for disability are *i'āqa*,<sup>248</sup> *āwaq* and *ta'wīq*. The passive participles of these verbal nouns, a person with disability, are respectively *mu'āq*, *ma'ūq* and *mu'awwaq*. There are also various euphemisms used in the modern literature to refer to people with disabilities such as *al-fi'āt al-khāṣṣa* (special groups), *dhawū al-iḥtiyājāt al-khāṣṣa* (people with special needs), *al-afrād ghayr al-'ādiyyīn* (the abnormal individuals), etc.<sup>249</sup>

Also the terminology used in the aforementioned (ICF) international classifications issued by the WHO was rendered into Arabic. For instance, *'ajz* was used as an equivalent for disability,<sup>250</sup> *i'āqa* for handicap,<sup>251</sup> *i'tilāl* for impairment, *al-wazā'if wa al-bunā al-jismiyya* for body functions and structures<sup>252</sup>, *al-anṣiḥa* for activities, *al-taḥaddud fī al-anṣiḥa* for activity limitations<sup>253</sup>, *al-musāhama* for participation<sup>254</sup> and *al-taqalluṣ fī al-musāhama* for participation restrictions.<sup>255</sup>

However, these terms cannot be traced in early Islamic literature. Even if we come across one of the derivatives of such terms, the significance would not be the same as that of the modern term.<sup>256</sup> To give just one example, the stem *'w-q* – of which the derivatives *ta'wīq* and *āwaq* are the most common in this regard – is recorded in the classical Arabic lexicons but with other meanings.<sup>257</sup> For instance, *'ā'iq* [pluralized, *'awā'iq*] is that [thing] driving away from what is

<sup>246</sup> Ibid, p. 27; <http://www.sacredplaces.org/PSP-InfoClearingHouse/articles/That%20All%20May%20Worship.htm>

<sup>247</sup> Ibid, p. 27.

<sup>248</sup> This is the most common Arabic equivalent for disability. However some scholars indicate that it is linguistically incorrect and prefer the other two terms, see Ibn Ḥamza, Muṣṭafā (1414/1993); <http://www.qaradawi.net/arabic/meetings/shreai-&-hayaa/prog-27.htm>

<sup>249</sup> See Mūsā, Nāṣir b. 'Alī al- (2001), p. 20 & 21.

<sup>250</sup> Munazzamat al-Ṣiḥḥa al-'Ālamiyya (2001), p. 28. See also Wazana, Ṭal'at b. Ḥamza al- (1412/2000), pp. 1 & 2.

<sup>251</sup> Munazzamat al-Ṣiḥḥa al-'Ālamiyya (2001), p. 327. Paging is based on an electronic version. I hereby submit my deep thanks and gratitude for the Regional Office for Eastern Mediterranean, WHO especially to Dr. Muahmmad Haytham Al Khayat and Dr. Kasem Sara.

<sup>252</sup> Munazzamat al-Ṣiḥḥa al-'Ālamiyya (2001), pp. 22, 31, 84 & 346.

<sup>253</sup> Ibid, pp. 31, 37, 193, 346 & 354.

<sup>254</sup> Ibid, pp. 22, 28, 340 & 346.

<sup>255</sup> Ibid, pp. 31, 193 & 346.

<sup>256</sup> Abū Jayb, Sa'dī (1402/1982), p. 12; 'Abd Allāh, Muḥammad 'Abd Allāh (1422/2001), vol. 2, p. 665.

<sup>257</sup> Ibn Ḥamza, Muṣṭafā (1414/1993), p. 4; 'Abd Allāh, Muḥammad 'Abd Allāh (1422/2001), pp. 665 & 666.

good (*khayr*) such as *‘awā’iq al-dahr* (Impediments of Time).<sup>258</sup> In this sense the plural form of the active participle *mu‘awwiq*, i.e., *mu‘awwiqūn* was used in the Qur’ān (33:18) to denote those who drive people away from practising Jihad.<sup>259</sup>

As for terminology used in classical Islamic sources, Rispler-Chaim remarked:

“I could not identify any single general term that would combine all people with disabilities as a group [...] It is only in contemporary literature that we find sometimes generalized terms, such as *aṣḥab al-‘ahat* or *dhawu al-‘ahat* (“owners” or bearers of impairments, defects), *mu‘awwaqun* or *mu‘aqun* (literally those held back by difficulty and limitations on their mental or physical functions) and *‘ajaza* or *‘ajizun*, pl. of *‘ajiz* (weak person, unable to do things like the old)”<sup>260</sup>

According to Rispler-Chaim, the only exception was the term *marīd* (sick or ill person) which can be a general term used to denote a wide range of disabilities.<sup>261</sup>

A trawl through early Islamic sources in general and those on Islamic jurisprudence in particular shows that the abovementioned observation is imprecise. First of all, the term *aṣḥāb al-‘ahāt* or *dhawū al-‘ahāt* is not a prerogative of contemporary literature. For instance, *dhawū al-‘ahāt* was a common term in early Arabic literature under which people with different disabilities were enlisted.<sup>262</sup> In juristic literature, *‘āha* was defined as a legal term originally used for describing the defects striking plants and animals and later on also used to denote the chronic defects and infirmities that afflict humans.<sup>263</sup> Furthermore, when Ibn Fahd wrote in the sixteenth century his book on people with disabilities he called them *dhawū al-‘ahāt* as the title of his book indicated, *Al-Nukat al-zirāf fī al-maw‘iza bi dhawī al-‘ahāt min al-ashrāf* (Cute Anecdotes of Seeking Admonition from the Luminaries of People with Disabilities).

At any rate this was not the sole term used in classical literature in order to refer to people with disabilities in general. We give just a few examples. *‘Aḍb*<sup>264</sup>

<sup>258</sup> For further information, see ‘Abd al-Ḥamīd, al-Sayyid Muḥammad ‘Abd al-Ḥamīd (1418/1998), pp. 7 & 8; ‘Abd Allāh, Muḥammad ‘Abd Allāh (1422/2001), pp. 665-667.

<sup>259</sup> For further information on this point, see Qurṭubī, Abū ‘Abd Allāh Muḥammad b. Aḥmad al- (1372/1952), vol. 14, p. 151; ‘Abd al-Ḥamīd, al-Sayyid Muḥammad (1418/1998), pp. 7-9; ‘Abd Allāh, Muḥammad ‘Abd Allāh (1422/2001), pp. 666-667.

<sup>260</sup> Rispler-Chaim, Vardit (2007), p. 4.

<sup>261</sup> Ibid, pp. 4 & 5.

<sup>262</sup> Just to give examples of the early writers who made use of this term where people with disabilities were included, see Ibn Ḥabīb, Muḥammad (1361/1942), pp. 261-382; Ibn Qutayba Abū Muḥammad ‘Abd Allāh b. Muslim (1388/1969), pp. 578-589; Ibn Qutayba Abū Muḥammad ‘Abd Allāh b. Muslim (1406/1986), vol.4, pp. 63-68; Ibn Rusta, Abū ‘Alī Aḥmad b. ‘Umar (1419/1998), pp. 189-192; Khawārizmī, Jamāl al-Dīn Abū Bakr al- (1327/1909), pp. 296-298; Tha‘ālibī, Abū Manṣūr ‘Abd al-Malik b. Muḥammad al- (1968), pp.92-95; Ibn al-Jawzī (3), pp. 229-231.

<sup>263</sup> See Ṣan‘ānī, Muḥammad b. Ismā‘īl al-Kaḥlānī al- (1), vol. 2, p. 64; Fayyūmī, Aḥmad b. Muḥammad b. ‘Alī al- (1), p. 439.

<sup>264</sup> Exploring the denotations and connotations of such terms without giving direct English

is a verbal noun denoting *shalal* (paralysis), *khabal* (insanity) and *‘araj* (lameness). The passive participle, *al-ma‘dūb*, denoted the weak person who cannot hold fast on the riding camel.<sup>265</sup> *Al-Da‘if*, (pl. *al-ḍu‘afā’*) literally means the weak. This term occurred in the Qur’ān (2:282) and was interpreted as referring to people with different sorts of mental and physical disabilities such as lunacy, dumbness, speech disorders<sup>266</sup> or missing one of the limbs and thus synonymous with *mukhdaj* clarified below.<sup>267</sup> *Ahl al-balā’* (people of affliction) was used, especially in sources on theological issues,<sup>268</sup> to signify people with physical or mental disabilities.<sup>269</sup> In this sense, this term was used in a number of Prophetic traditions such as the tradition speaking about the state of *ahl al-balā’* and *ahl al-‘āfiya* (people of wellness) on the day of Judgement.<sup>270</sup>

*Ashāb al-a‘dhār* (people with excuses) was used, especially in sources on Islamic Jurisprudence, to refer to those people whose disabilities have been recognised as excuses from specific religious obligations.<sup>271</sup> *Muṣāb* literally means smitten. It was sometimes used independently to denote a person afflicted with sorts of mental disability.<sup>272</sup> However, it was often used with the preposition *bi* denoting smitten with or by. For instance *muṣāb bi baṣarīh* or *bi iḥdā ‘aynayhī* means smitten with disorders in eyesight and so on.<sup>273</sup> *Nughāsh*

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equivalents is done on purpose. Despite some of these terms have English equivalents in dictionaries and lexicons [for instance chronic illness or invalidism for *zamāna*, valetudinarianism for *Qi‘ād*], none of them convey the precise meaning intended in this context. Hence adding such equivalents will create but confusion for the reader.

<sup>265</sup> Wizārat al-Awqāf wa al-Shu‘ūn al-Islāmiyya bi al-Kuwayt (1), vol. 24, pp. 10 & 11.

<sup>266</sup> See Ṭabarī, Muḥammad b. Jarīr al- (1405/1984), vol. 3, pp. 121 & 122; Qurṭubī, Abū ‘Abd Allāh Muḥammad b. Aḥmad al- (1372/1952), vol. 3, p. 388; ‘Abd Allāh, Muḥammad ‘Abd Allāh (1422/2001), pp. 567-569.

<sup>267</sup> See Mizzī, Abū al-Ḥajjāj al- (1400/1980), vol. 10, p. 463.

<sup>268</sup> See Ibn Abī al-Dunyā (1410/1989), vol. 1, p. 89; Ibn Ḥazm, Abū Muḥammad ‘Alī (1), vol. 3, p. 97; Ibn al-Wazīr, Muḥammad b. Ibrāhīm (1987), vol. 1, p. 209

<sup>269</sup> Abū Jayb, Sa‘dī (1402/1982), pp. 15 & 16.

<sup>270</sup> Tirmidhī, al- (1), Ḥadīth no. 2420, vol. 4, p. 603. The ḥadīth is also narrated by Ibn Abī al-Dunya and al-Ṭabarānī see Mundhirī, Abū Muḥammad ‘Abd al-‘Azīm b. ‘Abd al-Qawī al- (1417), ḥadīth no. 5159, vol. 4, p. 142; Bayhaqī, Abū Bakr Aḥmad b. al-Ḥusayn al- (1414/1994), ḥadīth no. 6345, Vol. 3, p. 375; Ṭabarānī, Abū al-Qāsim Sulaymān b. Aḥmad al- (1405/1985), ḥadīth no. 241, vol. 1, p. 156; Bayhaqī, Abū Bakr Aḥmad b. al-Ḥusayn al- (1410/1989), ḥadīth no. 9921, vol. 7, p. 180. See also See Ibn Abī Shayba (1409/1988), ḥadīth no. 23584, vol. 5, p. 48; Ibn Māja, Muḥammad b. Yazīd (1), ḥadīth no. 3532, vol. 2, p. 1168.

<sup>271</sup> See for instance, Kasānī, Abū Bakr Mas‘ūd b. Aḥmad al (1), vol. 1, p. 9 & 27; Nawawī, Yahyā b. Sharaf al- (1), vol. 3, p. 31, vol. 4, p. 347; Bukhārī, ‘Abd al-‘Azīz b. Aḥmad b. Muhammad al- (1), vol. 4, p. 253; Ibn al-Ḥājj, Muḥammad b. Muḥammad al-‘Abdarī (1), vol. 2, p. 205; Wizārat al-Awqāf wa al-Shu‘ūn al-Islāmiyya bi al-Kuwayt (1), vol. 27, p. 176. See also ‘Abd Allāh, Muḥammad ‘Abd Allāh (1422/2001), p. 567.

<sup>272</sup> See ‘Asqalānī, Aḥmad b. ‘Alī b. Ḥajar al- (1406/1986), vol. 1, p. 537; Rāzī, Muḥammad b. Abī Bakr b. ‘Abd al-Qādir al- (1415/1995), vol. 1, p. 156. for using it in this meaning, See for instance, Haythamī, Abū al-Ḥasan ‘Alī b. Abī Bakr al- (1407/1986), vol. 9, pp. 2 & 389; Bukhārī, Abū ‘Abd Allāh al- (1409/1989), ḥadīth no. 887, vol. 1, p. 306; Ibn al-Mubārak, ‘Abd Allāh (1), ḥadīth no. 891, vol. 1, p. 311; Ibn Ḥazm (1404 A.H.), vol. 7, p. 479.

<sup>273</sup> See Ṭabarī, Muḥammad b. Jarīr al- (1405/1984), vol. 5, p. 240; Ibn Kathīr (1401/1980), vol. 1, p. 544; Mubārakafūrī, Muḥammad b. ‘Abd al-Raḥmān al- (1), vol. 8, p. 442; Munāwī, ‘Abd al-Ra’ūf al- (1356/1937), vol. 4, p. 72; Rāzī, Ibn Abī Ḥatīm al- (1371/1952), vol. 9, p. 396;

which can be pronounced also as *nughāshiyy* or *naghghāsh* means dwarf or someone who has a sort of physical or mental disability.<sup>274</sup>

Besides these terms denoting disabilities in general, other terms were used for physical rather than mental disabilities and vice versa. As for terms used to denote physical disabilities in particular, we can mention the following examples. *Al-fālīj* (hemiplegia) defined as a disease hitting longitudinally one of the sides of the body, and maybe both, and causing paralysis.<sup>275</sup> *Khidāj*, literally denotes incompleteness and the passive participle, *mukhadj* denotes the baby whose pregnancy period was incomplete and also the person whose body is incomplete, i.e., defective by missing one of the limbs or the senses.<sup>276</sup> For instance, *mukhadj al-yad* means the one without a hand.<sup>277</sup> *Mūdan* and *mathdūn* have synonymous denotations.<sup>278</sup> *Nāqīṣ al-khalq*, literally means one whose creation is incomplete. The term was commonly used in Islamic literature referring to people suffering physical deficiency or defectiveness.<sup>279</sup> *Qi'ād* originally denoted a disease striking the camels' hips and thus tipping them to the ground. The passive participle, *muq'ad* denoted one afflicted with an illness in body so that he/she cannot walk.<sup>280</sup> Terms like *a'raj* and *aksah* have synonymous denotations.<sup>281</sup> Finally, *zamāna* denoted a long-lived illness and comprised almost every defect such as blindness, lameness, amputated limbs and the like which hinder the person from earning his livelihood by his own work. The person afflicted with *zamāna* was called *zamin* and *zamin*.<sup>282</sup>

As for terms denoting mental disabilities in particular, Abū al-Qāsim Ibn Ḥabīb (d. 406/1015) for instance counted more than thirty terms in this regard such as *majnūn*, *aḥmaq*, *ma'tūh* (denoting especially one who is born mad), *akhraq*, etc.<sup>283</sup>

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Baghdādī, Abū Bakr Aḥmad 'Alī b. Thābit al-Khaṭīb al- (1), vol. 3, p. 371; 'Asqalānī, Aḥmad b. 'Alī b. Ḥajar al- (1412/1992), vol. 3, p. 491.

<sup>274</sup> See Shāfi'ī, Muḥammad b. Idrīs al- (1410/1990), vol. 8, p. 108; Shawkānī, Muḥammad b. 'Alī b. Muḥammad al- (1413/1993), vol. 3, p. 127; Ibn al-Murtaḍā, Aḥmad b. Yahyā (1), vol. 2, p. 346; Fayyūmī, Aḥmad b. Muḥammad b. 'Alī al- (1), p. 611; Buhutī, Manṣūr b. Yūnus al- (1402/1982), vol. 1, p. 422; Wizārat al-Awqāf wa al-Shu'ūn al-Islāmiyya bi al-Kuwayt (1), vol. 24, p. 246.

<sup>275</sup> Fayyūmī, Aḥmad b. Muḥammad b. 'Alī al- (1), p. 480; Munlā Khusrū, Muḥammad b. Faramūz (1), vol. 2, p. 431; Anṣārī, Abū Yahyā Zakariyya al- (2), vol. 3, p. 37; Anṣārī, Abū Yahyā Zakariyya al- (3), vol. 4, p. 15; Ibn Nujaym, Zayn al-Dīn b. Ibrāhīm (1), vol. 4, p. 51; 'Illaysh, Muḥammad b. Aḥmad b. Muḥammad (1), vol. 2, p. 341.

<sup>276</sup> Ṭahāwī, Aḥmad b. Muḥammad b. Salāma al- (1399/1979), p. 123-125

<sup>277</sup> Muṭarrizī, Nāṣir b. 'Abd al-Sayyid Abū al-Makārim al- (1), p. 135.

<sup>278</sup> 'Asqalānī, Aḥmad b. 'Alī b. Ḥajar al- (1379/1959), vol. 12, p. 295.

<sup>279</sup> Sarakhsī, Muḥammad b. Aḥmad b. Abī Sahl al- (2), vol. 1, p. 222; Ibn Mufliḥ, Ibrāhīm b. Muḥammad (1), vol. 3, p. 574.

<sup>280</sup> Wizārat al-Awqāf wa al-Shu'ūn al-Islāmiyya bi al-Kuwayt (1), vol. 24, pp. 10 & 11.

<sup>281</sup> See Rāzī, Muḥammad b. Abī Bakr b. 'Abd al-Qādir al- (1415/1995), vol. 1, p. 238.

<sup>282</sup> Haytamī, Shihāb al-Dīn Aḥmad b. Muḥammad b. Ḥajar al- (2), vol. 7, p. 152; Ibn 'Ābidīn, Muḥammad Amīn b. 'Umar (1412/1992), vol. 1, p. 555; Qalyūbī, Aḥmad Salāma al- & Aḥmad al-Burullusī 'Umayra (1415/1995), vol. 3, p. 197; Ibn Ḥamza, Muṣṭafā (1414/1993), p. 5; Wizārat al-Awqāf wa al-Shu'ūn al-Islāmiyya bi al-Kuwayt (1), vol. 24, pp. 10 & 11.

<sup>283</sup> For the complete list of these terms, see Ibn Ḥabīb, Abū al-Qāsim al-Ḥasan b. Muḥammad (1418/1998), pp. 43-49.

Noteworthy is that the terms denoting specific disabilities such as blindness (*ʿamā*), deafness (*ṣamam*), dumbness (*kharas*) and so forth have not been discussed here because there is no difference between the Arabic terms and their English equivalents in this regard. Just one point is in order here to avoid possible confusions. References to specific sorts of disabilities such as blindness, deafness, dumbness and the like occur frequently in the Qurʾān (e.g. 2:18 & 171, 6:39, 11:24, 13:19, 17:72, 47:23) in very negative contexts. Neglecting all commentaries on the Qurʾān and depending solely on internet sites containing a directory of the Qurʾān text with web search facility, the contemporary researcher Majid Turmusani made use of such verses to claim that the Qurʾān adopted a negative attitude against people with disabilities.<sup>284</sup> For such Qurʾānic verses, Rispler-Chaim consulted two Qurʾān translations and two early commentaries which suggested that the verses refer to such disabilities in the metaphorical rather than the literal sense. However, she concluded that it remained uncertain for her whether these verses referred to real disabilities or metaphorical ones.<sup>285</sup> Checking the context of these verses and consulting a large number of early and modern Qurʾān commentaries would show that the Turmusani's claim was baseless and Rispler-Chaim's doubts were unnecessary. The main context of such verses was a number of stubborn people who repeatedly refused to listen to the divine message conveyed by His Prophets. Due to this misbehaviour, they were punished by being deprived of God's mercy because their eyesight, hearing and other senses did not lead them to grasp the Divine message. At the end they were like the deaf who cannot hear and the blind who cannot see and thus there was no hope anymore that their situation would get better and that they would give an ear to the prophets' admonitions. At any rate, the Qurʾānic verses did not mean that those people cannot, in the literal sense, see or hear anymore.<sup>286</sup> This metaphorical usage of disabilities was also very common among the Arabs and not a Qurʾānic prerogative.<sup>287</sup> Qurʾānic references to people with disabilities, in the literal sense, made such people liable to legal alleviations rather than reproach or blame (e.g. 24:61, 48:17, 80:1-11). It is to be noted that Sufi literature and some modern studies such as the study by Saʿdī Abū Jayb made the Qurʾānic distinction between disabilities in the metaphorical sense and those in the literal sense a base for their viewpoint that the *real* disability which degrades one's position is that one afflicting one's heart and soul rather than

<sup>284</sup> Turmusani, Majid (2001), pp. 77 & 78.

<sup>285</sup> Rispler-Chaim, Vardit (2007), pp. 8 & 9.

<sup>286</sup> For examples of early Qurʾān commentaries, see Ṭabarī, Muḥammad b. Jarīr al- (1405/1984), vol. 1, pp. 146 & 147, vol. 2, p. 83; Qurṭubī, Abū ʿAbd Allāh Muḥammad b. Aḥmad al- (1372/1952), vol. 1, pp. 214 & 215, vol. 10, p. 333; Ibn Kathīr (1401/1980), vol. 1, p. 54; Bayḍawī, ʿAbd Allāh b. ʿUmar al- (1323/1905), vol. 1, pp. 194 & 195; Abū al-Suʿūd, Muḥammad b. Muḥammad al-ʿImādī (1), vol. 3, p. 132; Suyūṭī, Jalāl al-Dīn al- & Jalāl al-Dīn al-Maḥallī (1), vol. 1, p. 5; Alūsī, Abū al-Faḍl Maḥmūd al-(1), vol. 2, p. 41, vol. 7, p. 147. For modern commentaries, see for instance, Ibn ʿAshūr, Muḥammad al-Ṭāhir (1997), vol. 1, pp. 313 & 314; Qāsimī, Jamāl al-Dīn al- (1424/2003), vol. 1, pp. 285 & 286.

<sup>287</sup> See for instance, Ibn Manzūr, Muḥammad b. Makram (1), vol. 12, p. 53.

one's body.

The above-stated facts concerning the usage of English and Arabic terminology were the main guidelines in this study. The Arabic usage was the tool to search for the relevant discussions on people with disabilities in the classical Islamic sources. By the help of the English, such classical discussions were presented in a modern language considering the latest developments in the terminology used in this field.<sup>288</sup> However the transliterated Arabic classical terms were sometimes used besides the modern English terms in cases in which doing otherwise could harm the clarity of the text.

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<sup>288</sup> It is to be noted that more than one contemporary Muslim scholar found no harm in using the modern terminology – as long as they are understandable and inoffensive – and also used such terminology in their writings on disability in Islam and the titles of such writings. See for instance, Abū Jayb, Sa‘dī (1402/1982), pp. 11-16; ‘Abd al-Ḥamīd, al-Sayyid Muḥammad (1418/1998), pp. 7-10; ‘Abd Allāh, Muḥammad ‘Abd Allāh (1422/2001), p. 667.

