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An Outlook of Ḥiyal (Legal Stratagems) and Its Compilations in Islamic Economic Literature

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ABSTRACT

Ḥiyal (legal stratagems) means to find an unconventional way to meet an end in a complicated Shari'ah issue. These stratagems should comply with the Maqasid-e-Shari'ah to remain legal. It has a wide application in today's versatile cutting-edge Shari'ah matters. The research objective of this study is to explore and analyze the manuscripts and compilations from jurists, for and against the application of Ḥiyal (legal stratagems) in Islamic law in the problem-solving procedure. The study finds that Muslim jurists have strived to develop the Ḥiyal theory as a solution to fulfill the needs of the era. Hanafi jurists are considered as originators of this concept in Islamic law literature. They have several published compilations containing cases where legal stratagems were applied to solve the problem or may be applied. They were criticized by other jurists for advising such relaxed Ḥiyal, especially by Hanbali scholars. The majority of the scholars are of the view that all Ḥiyal are not permissible nor impermissible instead it should be checked on a case-to-case basis. The study is limited to the twelve compilations available to the author. The study uses the content analysis method to achieve its objective. The contemporary Shari'ah scholars may explore these compilations which can support them in finding solutions in the fields of modern Islamic economics and Halal industry.

Keywords: *Ḥiyal, Legal stratagems, Compilations, Maqasid-e-Shari'ah, Islamic economics*

Introduction

Whenever a Shari'ah scholar forbids an action, it is his duty to include a permissible solution in his verdict to fix society's problems¹. That is because it is not easy to deter people from a particular thing but to provide an alternative route to meet the allowable need, is the true solution to the dilemma. Like a river cannot be prevented from running, instead, a second river can be dug to stop the use of the first canal.

¹ Usmani, *Riba Free Banking*.

Jurists of every era from Muslim history have contributed to Islamic law literature and compiled several exits for critical situations which serve as a guide for new scholars to find the solutions in the cutting edge contemporary Shari'ah issues. There is a definite need to highlight the literature of Muslim jurists regarding the Shari'ah engineering in Islamic law to provide some exits to followers.

Research Problem

Since the early days of Shari'ah law, Muslim jurists have been adopting *Ḥiyal* (legal stratagems) for the establishment of these alternates². But it has been a controversial subject among theorists of Islamic law in the latter part of history. The use of *Ḥiyal* in issuing fatawa (Shari'ah verdicts) is condemned by many Shafi'i, Maliki, and Ḥanbali scholars³. Both the groups, that is the proponents and the opponents have compiled a precious heritage of different stratagems applied in several cases in history.

Dynamic Shari'ah solutions to new challenges are urgently needed in the modern ever-changing environment. The growth of Islamic economics against the traditional interest-based structure is a major challenge for Muslim scholars, in particular. In this area, the implementation of stratagems has been widely criticized by academics. The analysis will have a significant effect on Islamic economics scholars in recognizing the elder jurists' approach to addressing Shari'ah financial problems through *Ḥiyal* and highlighting the relevant sources for this purpose.

Research Objective

This study aims to explore and investigate the compilations from different jurists about the application of *Ḥiyal* (legal stratagems) in problem-solving techniques from their *Ḥiyal* scriptures.

Significance of Legal Stratagems Compilations in Islamic Law

Through academic literature, the flexibility of Islamic law has been underestimated, while this has been a prominent feature of divine Islamic law⁴. Shari'ah law is the living, vibrant, and universal law designed by divine sources. It applies to a village as it applies to the economy of a developed busy city. The clue to its universalness is the flexibility and adaptability in any case. One of the general propositions from the sacred law is "Whenever there is a difficulty, relaxation and flexibility is applied", one similar maxim is "The difficulties permits the impermissible actions"⁵. One of the ways through which the jurists have relaxed the matters for the people in a tough situation is the application of legal stratagems (*Ḥiyal*) where a permissible end is reached through an extraordinary way. This involves a great deal of legal expertise and jurisprudence skills.

With the transition of culture and community, the jurisprudence of legal exits develops. The more society and civilization grow, this kind of jurisprudence develops with it, and the more deflation the civilization retains, this kind of jurisprudence persists and freezes. So, it develops with the development of life⁶.

² Shaybani, *Al-Makaharij Fil -Ḥiyal*.

³ Ibnu Batta, *Ibtal AlḤiyal*.

⁴ Gerber, "Rigidity versus Openness in Late Classical Islamic Law : The Case of the Seventeenth-Century Palestinian Mufti Khayr Al-Dīn Al-Ramlī."

⁵ Zarqa, *Shar Hul Qawaed Al-Fiqhiyya*.

⁶ Alsaidy, "The Contribution of Fiqh in Human Sciences: History as an Example."

In Islamic history, the views of older experts are commonly preferred. The attempt was to relate the decision's argument to the views of previous Imams or even Sahaba's companions⁷. These precedents have been used as an argument as well as justification. The distinction between the two ways of aiding the opinion from precedent is that argument is used before the jurisdiction and the justification is presented after the order is declared⁸.

In Islamic jurisprudence, the term 'Nawāzil' is used for precedents. This means the compilations of the latter part of the jurists, not the earlier jurists. 'Nawāzil' is jurisprudential literature contributed by judges, muftis, or experts on the topic of actual events to decide on them or to justify the legal opinion on them. Since its inception, Islamic law has stressed much of this prior judicial system. Fiqh-un-Nawāzil is a subset of fiqh (Islamic jurisprudence) discussing contemporary problems (newly emerging problems)⁹.

***Hiyal* (Legal Stratagems) Definition**

The classical scholars have defined the *Hiyal* in two styles¹⁰: One is a broader meaning, that is: "any clandestine means of getting rid of a problem or an exit". The Arabic word *Makhrāj* describes the same. The definers are Imām Qurtubi, Al- Hamawi, Al-Sha'bi, and others¹¹. Al-'asqalani has defined it with the phrases: "Hila is something through which you reach your goal in a hidden way"¹².

The second and the narrowed meaning for this word indicates a backdoor solution of the issue which results in transforming an impermissible to permissible. The scholars preferring this, are namely Ibn¹³, his student¹⁴, and¹⁵. Fares¹⁶ defined *Hiyal* as legal loopholes or artifices. Cesar and Greg explained *Hiyal* as "legal stratagems designed to reach impermissible ends by formal lawful means"¹⁷.

Mansoori gave a detailed and comprehensive definition, he said "the use of legal means for extra-legal ends that could not, whether themselves are legal or illegal, be achieved directly with the means provided by the Sharī'ah. It enables persons who would otherwise have had no choice but to act against the provisions of sacred law, to arrive at the desired result while conforming to the letter of the law"¹⁸.

⁷ Nyazee, *Introduction to Al-Hidayah*.

⁸ Schauer, "Precedent," 571.

⁹ Terem, "Redefining Islamic Tradition: Legal Interpretation as a Medium for Innovation in the Making of Modern Morocco."

¹⁰ Mansoori, "Use of *Hiyal* in Islamic Finance and Its Shariah Legitimacy."

¹¹ Arabi, *Ahkamul Qur'an*; Al-Hamawi, *Al Ashbah Wa Nazaer*.

¹² Al-'Asqalani, *Fath Al-Bārī Fī Sharḥ Ṣaḥīḥ Al-Bukhārī*.

¹³ Taemiyah (1991)

¹⁴ Ibn Qayyim (1991)

¹⁵ Al-Shatbi (1964)

¹⁶ Djafri (2018b)

¹⁷ Arjona and Jehle, "Islamic Law and the Limits of Amorality : Re- Conceptualizing the Legal Ethics of Transnational Islamic Finance."

¹⁸ Mansoori, "Use of *Hiyal* in Islamic Finance and Its Shariah Legitimacy."

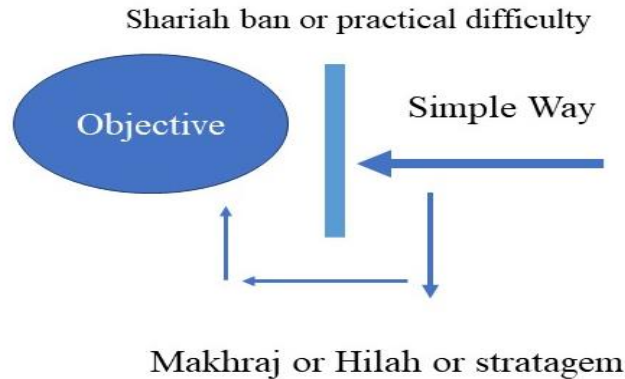


FIGURE: Author's illustration for Hīlah/legal stratagem concept

Difference Between Hīlah and Makhrāj

It is not a straightforward feat to draw a line between the appropriate approach and the permissible way-outs recommended by jurists and the impermissible methods and tricks used to evade Shari'ah's objectives. *Hīlah* can be defined as a trick or stratagem¹⁹, while *makhrāj* may be defined as a licit exit or relief²⁰. Smolo and co-writers distinguished between *makhrāj* and *hīlah* and said the previous one is a legal exit, and the last one is a trick. They applied 'intent' to explain the difference between the two jargons: *makhrāj* tries to comply with the *Shari'ah* excluded constraint²¹. While, in the case of *hīlah*, the intention normally is to execute the prohibited action. Alamgiri stated: Any Hīlah which leads to destroying someone's secured right or make it ambiguous is void, and the Hīlah designed to avoid a Ḥarām and reach to Ḥalāl is good²².

Contribution of Jurists in the Legal Stratagem Literature

Contribution of Ḥanafī Jurists

As far as the ḥanafī jurists are concerned, they are considered as the master of this science. Their unique theory to draw a line between two types of stratagems is the prejudice and defensive nature of Ḥiyal²³. Ḥanafī standpoint regarding the is almost the same as other madhāhib, although, the older scriptures of Ḥanafī literature do not use this terminology as much as done in the later centuries. So, the legal devices considered by them as legitimate are only those which do not evade the spirit of the law²⁴. These devices are more of remedies to attest to the legal doctrine, not tools of evasion as understood by some contemporary jurists²⁵. Al-Alusi, a 13th-century hijra Iraqi scholar, wrote that: "To me, every ḥīlah that evades Hikmah Shar'iyyah is rejected, like the ḥīlah for escaping from Zakat"²⁶. The limitation of not evading Qasd al-Shar'i

¹⁹ Abu Jib, *Al-Qamus Al-Fighi*; Cowan, "Hans Wehr: A Dictionary of Modern Written Arabic (Arabic-English)."

²⁰ Abu Jib, *Al-Qamus Al-Fighi*.

²¹ Musa and Smolo, "Al-Hilah (Legal Trick) and Al-Makhrāj (Legal Exit): The Difference between the Two and Their Application in Islamic Finance."

²² Alamgir, *Al-Fatawa Alamgiri*.

²³ Agha, "Hila Ki Sharai Hesiāt."

²⁴ Horii, "Reconsideration of Legal Devices (Hiyal) in Islamic Jurisprudence: The Hanafīs and Their 'Exits' (Makhārij)."

²⁵ Ghanem, "Al-Hiyal Al-Mubaha Wa Adillatuha Inda Al-Hanafiya."

²⁶ Al-Alusi, *Ar-Rūh Al-Ma'ānī Fī Tafsīri-l-Qur'ānī-l-'Aẓīm Wa Sab'u-l-Mathānī*.

leads to the natural rule that, involvement in any kind of ḥilah should not lead to the actualization of a Shari'ah objective at the cost of a higher objective.

One authoritative rule narrated from the classical text to identify the hila in Ḥanafi doctrine is: 'Any ḥilah designed to evade other's right is Haram, and any ḥilah opted as a mean to Halal and restrain from Haram is permissible and rewardable'²⁷. Among the founders of Ḥanafi madhab, Abu Yusuf is the most lenient in allowing the use of Ḥiyal, and his student, Muhammad bin Hasan Shaybani is quite moderate in allowing certain Ḥiyals and prohibiting others²⁸. Al-Shaybani stressed the preventing nature of makharij (not causing prejudice to another), while Abu Yusuf emphasized strategies available to those who know how to use them²⁹.

Contribution of Shafi'i Jurists

Imam Shafi'i is considered as one of the proponents of the Ḥiyal theory. He opposed the Maliki principle of Sadd-e-Darae', which is contrary to Ḥiyal. The followers of Shafi'i jurisprudence consider the application of legal stratagems prohibited in general with some exceptions. They highlighted the importance of intention in the legitimacy of the action although they are criticized for allowing the controversial contract of 'ina, and it is executed even with bad intent³⁰. There is a compilation from Al-Qazwini a Shafi'i jurist named as *Al-Hiyal Ash-Shariyya*³¹, which was highlighted by Joseph Schacht in their doctoral thesis³².

Contribution of Maliki Jurists

Maliki jurists are very strict on the unlawfulness of certain Ḥiyal. They even stop the ways that may reach to an evil (Sadd-e-zarae')³³. The Maliki jurist Suhnun, while discussing the legal stratagems in Mudawwanah, rejected the concept of ḥilah and proposed a concept Sadd-e-Darae'³⁴. Another Mālikī jurist, Qarafi describes the concept: Sadd al-dharai' means to stop the practices leading to sleaze to eradicate it. If an activity that is itself free from corruption (mafsadah) is used as a means of corruption, Imam Mālik prohibited that act in numerous cases³⁵.

Al-Shāṭibī, the late Maliki jurist, also explained the ḥilah categories through the theory of the maqāsid³⁶. Imām Al-Ghazālī the prominent philosopher of the fifth century Hijrah, categorized the maqasid into five famous major components³⁷. Al-Shāṭibī divided the Ḥiyal into three categories; those which are unanimously invalidated, those which are unanimously endorsed, and finally, those in which the jurists differ. If ḥilah leads to the actualization of the desired purpose without threatening Islamic law, it would be accepted as permissible and vice versa³⁸.

²⁷ Agha, "Hila Ki Sharai Hesiati."

²⁸ Al-Murghinani, "Kitab-Ul-Buyu'."

²⁹ Horii, "Reconsideration of Legal Devices (Hiyal) in Islamic Jurisprudence: The Hanafis and Their 'Exits' (Makhārij)."

³⁰ Alsayyed, "Shari'ah Board, The Task of Fatwa, and Ijtihad in Islamic Economics, and Finance."

³¹ Al-Qazwini, *Al-Hiyal Ash-Shariyya*.

³² van Donzel et al., "Encyclopaedia of Islam: New Edition."

³³ Mansoori, "Use of Hiyal in Islamic Finance and Its Shariah Legitimacy."

³⁴ Horii, "Reconsideration of Legal Devices (Hiyal) in Islamic Jurisprudence: The Hanafis and Their 'Exits' (Makhārij)."

³⁵ Al-Enezi, "Fiqh Al-Handasa Al-Māliya Al-Islāmiya."

³⁶ Muhammed Imran, "Legal Stratagem (Hiyal) And Usury in Islamic Commercial Law."

³⁷ Al-Ghazālī, *Al-Mustasfa Fi 'ilm Al-Isul*.

³⁸ Syed and Omar, "Hiyal in Islamic Finance: A Recognition of Genuine Economic Need or Circumvention of Riba?"

Contribution of Ḥanbali Jurists

The significant oppositions of Ḥiyal (legal stratagems) are Ibn Batta, Ibn Taiyimiyyah³⁹, and his student ibn Qayyim from Ḥanbali jurisprudence. They reached to the extent that Ḥiyal is to deceive God⁴⁰. Ibnu Batta in his book, *Ibtal al-Ḥiyal* narrated a hadith that Abu Hurairah reported the Prophet (peace be upon him) said: “Do not commit what the Jews committed so that you would make halāl what Allah has prohibited with the slightest Ḥiyal (tricks or ruse)”⁴¹. Ḥanafi scholars were also heavily criticized for their behavior in proposing Ḥiyal by Imām Bukhari, the Maliki Muhaddis, by writing a complete chapter against them in his *Saḥiḥ*.

³⁹ Ibn Qayyim, *E'lam-Ul-Muwaqqi'een*.

⁴⁰ Ibnu Batta, *Ibtal AlHiyal*.

⁴¹ Ibnu Batta.

TABLE: Compilations and Works On Ḥiyal(Legal Stratagems)

Serial No.	Title of compilation	Author	Affiliation	Purpose of compilation
1.	Kitab al-Makharij Fi'l-Ḥiyal	Muhammad Ibn Al-hasan Ash-shaibani	Ḥanafi	Collection of prescribed stratagems in particular scenarios
2.	Kitab al-Khassaf fil Ḥiyal	Ahmad bin amr Al-Khassaf,	Ḥanafi	Collection of prescribed stratagems in particular scenarios
3.	Al-Ḥiyal fil Fiqh	Al-Qazwini, Mahmud bin Hasan	Shafi'i	Collection and critique of stratagems
4.	Doctoral Thesis on books of Al-Khassaf, Al- Qazweeni and Muhammad bin Hasan al-Shaybani	Joseph Schacht ⁴²	Orientalist	A critique-based translation and commentary of three manuscripts regarding Ḥiyal.
5.	Kitab-ul- Ḥiyal	Muhammad bin Ismail Al-Bukhari ⁴³	Shafi'i	Compendium of Prophetic traditions condemning application of stratagems and criticizing particular illicit Ḥiyal.
6.	Kitab-ul- Ḥiyal fil Mabsoot ⁴⁴	Muhammad bin Ahmad AL-Sarakhsi(d/483 AH)	Ḥanafi	Compilation of permissible Ḥiyal with a speech on legitimacy.
7.	Kitab-ul-Ḥiyal	Committee of scholars of King Alamgir (d/ 1618) ⁴⁵	Ḥanafi	29 chapters of a systematic anthology of Ḥiyal
8.	Jannat al-ahkam wa-junnat al-khusdm	Saeed bin Ali, Al-Samarqandi (10 th Century Hijra scholar) ⁴⁶	Ḥanafi	Collection of prescribed Ḥiyal especially from Ḥanafi books.

⁴² Minhaji, "Joseph Schacht ' S Contribution To the Study of Islamic Law"; Layish, "Notes on Joseph Schacht'S Contribution to the Study of Islamic Law."

⁴³ Bukhari, "Kitabul Ḥiyal,."

⁴⁴ Al-Sarakhsi, *AL-Mabsoot*.

⁴⁵ Alamgir, *Al-Fatawa Alamgiri*.

⁴⁶ Baloot and Baloot, *Al-Turas Al-Islami-Almakhtootatwal Matbooot*.

9.	Ibtal al-Ḥiyal	Ibnu Batta, Ubaidullah bin Muhammad (d/387AH)	Ḥanbali	Criticizing the application of Ḥiyal by narrations of companions and successors
10.	Bayan ud daleel ala-butlan al-tahleel ⁴⁷	Ibn Taemiyah,	Ḥanbali	Focusing on the marriage of Halala the author presented a solid argument against Ḥiyal.
11.	E'lam-ul-Muwaqqi'een	Ibn Qayyim, Shams al-Dîn Abû'Abdillah Al-Jauziyyah	Ḥanbali	The book has a deliberation against Ḥiyal theory following his teacher Ibn Taemiyah.
12.	Al-Muafaqat ⁴⁸	Ibraheem bin Musa Al-Shatbi,	Ḥanbali	In the third volume, the author presented a valuable and decisive discussion on Ḥiyal along with some examples.

⁴⁷ Taemiyah, *Bayan Ud Daleel Ala-Butlan Al-Tahleel*.

⁴⁸ Al-Shatbi, *Al-Muafaqat*.

1. Kitab al-Makharij Fil-Ḥiyal by Muhammad Ibn Al-hasan Ash-shaybani

Shaybani's work was the earliest one in the context, so it received the most criticism from scholars. The qāḍī of Kufa Sharīk ibn 'Abdullah is the first scholar to denounce Kitāb al-Ḥiyal, stating that it is a book of deception⁴⁹. His comments can be taken as a piece of evidence for the authorship of the Kitāb al-Ḥiyal, because his death is in 177 A.H., in the era of Imam Muhammad bin Hasan Shaybani. This book was published by Maktaba Saqafah Deeniyyah In Cairo. The book is comprised of 25 chapters containing stratagems regarding different components of Islamic law.

2. Kitab al-Khassaf fil Ḥiyal by Ahmad bin 'amr Al-Khassaf

Khassaf was a prominent and highly ranked Ḥanafi jurist of his time. His compilation is a significant contribution to this theory. Although, in most of the cases he has elaborated the stratagems prescribed by Muhammad Ibn Al-Hasan Ash-Shaybani. This compilation consists of 55 chapters along with a preface proving the illegitimacy of the application of Ḥiyal.

3. Al-Ḥiyal fil Fiqh by Mahmud bin Hasan Al-Qazwini

This is one of the very few works done by Shafi'i jurists on this topic. This is a shorter compilation as compared to the Ḥanafi works, consisting of more than 100 pages. This compilation was published in Yemeni. The author has divided all the legal stratagems into three chapters. The impermissible stratagems, disliked stratagems, and permissible legal stratagems.

4. Doctoral thesis on books of Al-Khassaf, Al- Qazweeni and Muhammad bin Hasan al-Shaybani by Joseph Schacht

Joseph Schacht was a famous orientalist of the twentieth century, his subject of study was theology and Islamic law, but the main focus was Islamic law⁵⁰. He is also considered as a significant thought producer in Hadith Studies⁵¹, He was also considered by some modern writers as a separate component on orientalist view on Hadith⁵². He Accomplished his doctoral thesis on the topic of Ḥiyal from Schlesischen Friedrich Wilhelm Universitat, in 1923, working on three different scriptures of Ḥiyal. Schacht was also of the opinion that Ḥiyal were originated in Iraq, not in Medinese jurisprudence⁵³.

5. Kitab-ul- Ḥiyal by Muhammad bin Ismail Al-Bukhari

This is a chapter from the Sahih of Imam al Bukhari. He was among the great critics of Ḥanafi scholars on the notion of Ḥiyal. He criticizes these jurists without naming them in his famous book by just mentioning the phrase "Some people said". His objections are answered by some of the Ḥanafi scholars.

6. Kitab-ul- Ḥiyal fil Mabsoot by Muhammad bin Ahmad AL-Sarakhsi(d/483 AH)

⁴⁹ Al-Ṣaymarī, *Akhhbār Abī Ḥanīfa Wa Aṣḥābihī*.

⁵⁰ Layish, "The Transformation of the Sharī'a from Jurists' Law to Statutory Law in the Contemporary Muslim World."

⁵¹ Schacht, "A Revaluation of Islamic Traditions."

⁵² Suadi, "Menyoal Kritik Sanad Joseph Schacht."

⁵³ Layish, "The Transformation of the Sharī'a from Jurists' Law to Statutory Law in the Contemporary Muslim World."

This is also a specific chapter from the historical work of imam al-Sarakhsi. In this chapter, he narrated the legal stratagems advised by Muhammad Ibn Al-Hasan Ash-Shaybani and added some stratagems from his own.

7. Kitab-ul-Ḥiyal by Committee of scholars of King Alamgir (d/ 1618)

This is a component of the comprehensive and systematic work of the seventeenth century. It was compiled by a Royal Board of scholars under the supervision of a Lahori scholar “Shaykh Nizam”. He was assisted by six other ulamas. However, the names of four of them are known. They are: 1) Muhammad Jamil, Zia' al-Din, 2) Jalal al-Din Husayn and 3) Muhammad Husayn.⁵⁴ It is a compilation of Nawazil cases collected by the committee appointed by the emperor Alamgir. This chapter comprises of hundreds of Ḥiyal further categorized into different subchapters. These cases are related to worships, social relations like marriage and divorce, etc, and monetary transactions like sale, leasing, and investment ventures.

8. Jannat al-ahkam wa-junnat al-khussam by Saeed bin Ali Al-Samarqandi

This is an unpublished manuscript accessed and reviewed through alukah.net, available at the library of Jamia Azhar, Cairo. This manuscript comprises several legal stratagems most of which seems to be from the book of imam Mohammed. The author has classified the stratagems into fiqhi chapters. This manuscript should be brought into publication after a detailed and rigorous analysis.

9. Ibtal al-Ḥiyal by Ibnu Batta, Ubaidullah bin Muhammad (d/387AH)

This book was written by a prominent Ḥanbali jurist in the opposition to Ḥiyal theory. This book comprises of a lot of severe criticism on advocates of Ḥiyal theory. Ibnu Batta's thesis can be summarized under three arguments in these words: “i) The legal rules must be used as per their prescription and divine mandate and the Ḥiyal do the exact opposite. ii) The Ḥiyal are deceptions as they outwardly simulate licit actions whereas inwardly, they aim to legalize the proscribed. iii) The intentions of the parties are critical in determining the legality of actions”.

Discussion and Conclusion

- The above elaboration states that Muslim jurists, from all the schools of thought, have produced sufficient literature for and against the application of Ḥiyal (legal stratagems) in solving the difficult Shari'ah problems.
- The Hanafi legacy and some of Shafi'i scholars are proponents for the Hiyal theory, while Hanbali scholars and Maliki doctrine are against the concept. Although, all of those jurists who have a strict stance on the point, do relax the ruling in situations of difficulty.
- This is why most of the latest writers on this point like Al-Shatbi and Ibnul-Qayyim concluded that not all the stratagems legitimate nor all are illegitimate, instead there should be some checkpoints for any stratagem to be applied to analyze it, like the intention of the doer, the degree of inconvenience, the department of Islamic law in which it is being applied (Ebadaat, Mu'amlaat etc.)
- The above deliberation highlights one interesting fact that orientalist were also interested in legal stratagems of jurists. They drew some misrepresenting conclusion regarding jurists specially Hanafis, that the rigid Islamic law was not able cope up with the

⁵⁴ Munir, “Precedent in Islamic Law with Special Reference to the Federal Shariat Court and the Legal System in Pakistan.”

practice of society which induced the jurists to advise some stratagem to evade the law. These misleading injunctions should be tackled in proper way.

- The application of *Hiyal* (legal stratagems), that is to fulfill the need of the scenario while complying with the apparent legal rulings of *Shari'ah*, has immense significance in today's changing economic world.
- The above tiring efforts of Muslim jurists can contribute widely to solving the cutting edge of contemporary *Shari'ah* problems. But the application of these stratagems should be within the boundaries of *Maqasid-e-Shari'ah*, and it should be closely watched and audited from time to time.

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