

Implications of ‘Allāmah Ṭabāṭabā’ī’s Theory of Mentally-Posited Conceptions for Islamic Legal Theory

This study examines Muḥammad Ḥusayn al-Ṭabāṭabā’ī’s Theory of Mentally-Posited Conceptions (*idrākāt-i i’tibārī*) and explores its implications for Islamic legal theory (*uṣūl al-fiqh*). According to Ṭabāṭabā’ī, human conceptions fall into two categories: real and mentally-posed. Real conceptions correspond to objective external realities, while mentally-posed conceptions are based on convention, assignation, and assumption rather than reflecting objective truths. These conceptions depend on human faculties of action and involve a sense of being obliged to perform an act, which distinguishes them from objective knowledge. Ṭabāṭabā’ī further divides mentally-posed conceptions into two types: those that are universal and immutable, arising from human natural self-preservation, and those that are contingent, shaped by subjective circumstances and social interactions. As tools humans use to fulfil their needs, mentally-posed conceptions are influenced by human affections, some of which are universal across time, while others evolve. Through selected debates in jurisprudence and Islamic legal theory—including discussions on the nature of the imperative, the probative force of certainty, and the deferred condition—this article illustrates how the theory not only clarifies specific legal issues but also, more broadly, paves the way for a transformative logic of Shari’a. It facilitates the distinction between advisory and legislative rulings, as well as between what is immutable and what must remain flexible in the inference of Shari’a precepts in accordance with the evolving needs of human beings.



Prof. Seyyed Mohaghegh Damad
Shahid Beheshti University

Seyyed Mostafa Mohaghegh Damad is a member of the Academy of Sciences of Iran and a Professor in the Faculty of Law at Shahid Beheshti University. He studied at the Fayzieh School in Qom, and achieved the degree of *Ijtihād* (Ayatollah) in 1970. He received his Ph.D. in Law (Doctorat en Droit) at the Catholic University of Louvain-la-Neuve in 1996. He is the author of 37 published books and more than 65 academic journal articles. Prof. Damad is a regular contributor of global academic conferences and interfaith dialogue summits.



Hossein Mousavi
Royal Holloway, University of London

Hossein Mousavi is a philosophy graduate and a PhD student in Middle East Politics at Royal Holloway, University of London. His research focuses on the transnational activities of Shia clerics in pre-revolutionary Iran, with a particular emphasis on the conceptual history of their political and intellectual thought. He is especially interested in how digitised archival materials can be used to trace the evolution and circulation of these ideas.