



Akhmad Tashkuprizada's Approach to the Issues of Islamic Law

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Abstract: *This article is devoted to the analysis of the work "Risala fi az-zebbi an-harimi ash-shari'at" (On the Protection of Sharia Laws) written by Akhmad Tashkuprizada in order to explain the controversial Sharia issues he encountered during his time as a judge. This work is considered an important work that deserves attention from the point of view of the legal thought of the Ottoman Empire. In this work, Akhmad Tashkuprizada provides important information about anger, justice, courage and the limits of the judgeship, the functioning of the judicial system of the Ottoman Empire, the social responsibility and moral qualities of judges.*

Keywords: *Sufism, Akhmad Tashkuprizada, Ottoman Empire, Judicial System, Sharia, Ruling, Fiqh, Jurisprudence, Justice, Law.*

Introduction

Akhmad Tashkuprizada (born December 2, 1495 in Bursa – died April 16, 1561 in Istanbul) was one of the most famous scholars of the Ottoman Empire. He created many works in such fields as theology, logic, philosophy, ethics, mysticism, and classification of sciences. His works are distinguished by their systematization of the scientific heritage of earlier Islamic thought [5:220].

It is known that the legal system of the Ottoman Empire was based on the basic principles of Islamic law. It also had a justice mechanism administered by qazis (judges). Qazis not only applied legal norms in practice, but also had important authority in maintaining social order. In this regard, the works written about the qazi institution are an important source not only from a legal perspective, but also for understanding the concept of justice in Ottoman society.

The institution of the qazi has been assessed within the context of the social, political and legal dynamics of the time, and there has been much debate about the factors influencing the decisions of judges, the limits of their authority and their legal obligations. In this context, the qazi's understanding of justice, their rulings and their relationship with the authorities were considered important issues in Ottoman legal thought [1:4349].

Akhmad Tashkuprizada's "Risala fi az-zebbi an-harimi ash-shari'at stands out as an important source containing legal arguments developed in response to criticisms directed against the qazi [2:1115]. However, this work was not written simply to defend the qazi. The work presents a scientific and ethical analysis of the judicial system of the Ottoman Empire, the institution of the qazi (judges), and the concept of "justice". In response to criticism directed at him while writing about the duties of judges, Akhmad Tashkuprizada develops a concept of "justice" based on anger, courage, and gentleness.

Methodology

There are currently two copies of the work "Risala fi az-zebbi an-harimi ash-shari'at", one of which is incomplete. The complete copy is in the collection of manuscripts registered in the Turkish Library of the Directorate of Religious Affairs under the inventory number 1873, and the title of the work is recorded in this copy as "Risala fi az-zebbi an-harimi ash-shari'at". The incorrect copy is in the Public Library of the Balikesir Province, Turkey. This treatise is entitled "Risala fi al-Gadab" [2:1120]. Tashkuprizada's statement that he wrote the treatise at the age of fifty-seven, after he became the judge of Istanbul, clearly indicates that it was composed in 1551 AH [3:1a]. He states that when he began his duties as the judge of Istanbul, he swore to follow the basic principles of the Hanafi school and to base his judgments solely on the evidence of the Sharia.

In writing his treatise, Akhmad Tashkuprizada made extensive use of various fields of classical Islamic sciences, mainly the Quran and hadith. From hadiths, he used Imam Bukhari's "Al-Jami as-Sahih", Imam Muslim's "Al-Jami as-Sahih", Isa Tirmizi's "Al-Jami al-Sunan", Abu Dawud's "Sunan", Ibn Majah's "Sunan" and Ibn Abi Shaybah's "Al-Musannaf". He also used Abu Bakr Abdullah al-Baghdadi's "Kitab al-Gadab" on ethics, and Akhmad Bayhaqi's "As-Sunan al-Kubra" on jurisprudence and hadith commentary. In addition, Tashkuprizada wrote theoretical conclusions about the position of judge, relying on works on political science such as al-Mawardi's "Al-Akhkam as-Sultaniyya". He also referred to historical, literary, and ethical literary sources such as Ibn Abdul-Khakam's "Futuhi Misr wa al-Maghrib", Ibn al-Jawzi's "Al-Muntazam", and al-Abiy's "Nasru-d al-Dur fi al-Mukhadarat".

Result and Discussion

He describes the harsh criticism and accusations he faced during his time as a judge in Akhmad Tashkuprizada as follows: "However, these actions of mine were not praised by the people of the city. They made me a target of condemnation and criticism, denied my work to establish justice, and made the accusations so severe that the sky would split and the mountains would shake. For they were influenced by the traditions of their fathers and grandfathers, contrary to what they had seen with their eyes and heard with their ears. I tried several times to refute these accusations brought against me verbally. However, they found my answers insufficient. They made unfounded claims that I had invented them. I was moved by the desire to defend the truth. I decided to write a treatise that would clarify my situation, clearly state my purpose, and contain rational arguments and evidence" [3:1b].

In this treatise, Tashkuprizada systematically examines the criticisms directed at him and discusses them under the following four main headings.

First, he refutes the accusation that he preferred leniency to anger and mercy to severity in passing judgment.

Second, he disputes the claim that he was excessively lenient among his opponents.

Third, he responds to the accusation that he was content with only superficial justice towards witnesses.

Fourth, he attempts to refute the criticism that he did not apply politically motivated sentences.

Thus, the author responds individually to the accusations directed at him. He presents his approach to justice, impartiality, and the legal standards that must be observed as a judge. When the reasons for writing the treatise are considered together with the information in the sources, it seems that the criticisms stem not only from his time as a judge in Istanbul, but also from his years as a judge in Bursa.

Indeed, Akhmad Tashkuprizada seems to have been dismissed from his post in Bursa as a result of a tense situation with the soldiers. Neither the author himself nor the sources of that period provide detailed information about this event. However, according to the scholar's son, Kemaliddin Makhmud, Akhmad Tashkuprizada resigned from his position as a judge in Bursa due to the conflicts that occurred after the sultan's soldiers used a narcotic drug [4:74]. The criticisms directed at him in the scholar's treatise, such as the accusations of "cowardice in passing judgment," can be considered to be directed at his attitude during this military incident. In addition, his treatment of the issue of "enjoining good and forbidding evil" in the treatise and explaining to the sultan who should perform this task and how can be interpreted as an indirect message to the sultan who dismissed him [2:1123].

Akhmad Tashkuprizada wrote this treatise mainly to respond to the accusations made against him during his time as a judge. The text is not a direct introduction to the institution of the judge, but rather a defense refuting criticisms directed at the author personally. However, within the framework of the responses in the treatise, topics such as the essence of the judgeship, the moral responsibility of judges, the establishment of justice in the internal world and its reflection in the external world are also considered. The work consists of an introduction, four main objectives, and a conclusion, each of which is enriched with theoretical and practical examples based on the author's own experience and scientific knowledge.

In the introduction, Akhmad Tashkuprizada emphasizes that man is created with a soul belonging to the world of command and a body belonging to the world of creation, and that these two aspects are united by the "ego". He writes that the forces of anger (gadab) and lust, which are placed in the soul, are necessary for the test of life and the well-being of the body, but that an excess or deficiency of these forces can reduce a person to an animal or demonic level. According to him, "A person can achieve perfection only by bringing these

two forces (anger and wrath) into balance. This balance leads to the emergence of courage and chastity. In turn, it becomes the source of many virtues.

Applying his understanding of moral balance to the role of the judge, Akhmad Tashkuprizada divides those in authority into three classes: those who are responsible only for themselves; those who are responsible together with their families; and those who are responsible for governing the community. Judges and administrators belong to this last group. Their first duty is to “purify themselves,” their second duty is to establish justice within the family, and their third duty is to ensure justice among the people. According to Akhmad Tashkuprizada, God’s arguments against judges and rulers are stronger and more severe. He reminds us that this weighty responsibility can only be fulfilled through justice and honesty [3:2a-4b].

In the first chapter of the treatise, Tashkuprizada rejects the accusations leveled against him that he preferred “gentleness (halim) to anger and mercy to severity” and, while addressing the evils of the power of anger, emphasizes that the real goal is to find a middle path with courage. He emphasizes that although a tendency to anger prevails in childhood, through the blessings of friendship with the Sufis, this state is transformed into areas of courage such as patience, gentleness, patriotism, and even violence when necessary. He justifies his position with a hadith and reminds us that Mukhammad (prophet) became angry when Allah’s prohibitions were violated, but was merciful to the oppressed. Thus, Akhmad Tashkuprizada shows that the ability of judges to be both patient and forceful when necessary is a balance that stems from the root of courage [2:1126].

In the second heading, Tashkuprizada rejects the accusation of “being soft among enemies”. He emphasizes that softness (mildness) is a commendable moral virtue, but it should be used in moderation. The scholar, citing jurisprudential sources, argues that judges should not intentionally intimidate their opponents and should treat them with balance.

In the third heading, Tashkuprizada opposes the accusation of “being content with superficial justice in witnesses” and emphasizes that in Islamic jurisprudence, a judge is not obligated to examine internal aspects, as this is both difficult and impractical. The instructions of Umar (may Allah be pleased with him) to Abu Musa al-Ash’ari, the hadiths that indicate that the Messenger of Allah (peace be upon him) ruled according to the apparent meaning, and Ibn Daqiq al-Idi’s story about the dismissal of the judge of Bahnasah for ruling according to the inner meaning, show that religion prioritizes ruling based on the apparent meaning in order to maintain general order and be applicable to all [3:5b-7a]. In the fourth chapter, Tashkuprizada evaluates the accusation of “not acting politically” through two understandings of politics. The first is that rulers make decisions that exceed the limits of the Sharia according to their own desires, which he conveys with strong criticisms of Ibn al-Jawzi, and emphasizes that this is not permissible in any way. The second is that non-mujtahid rulers may prefer weak opinions within the school based on the needs of the time, which is permissible for sultans only under certain conditions. However, he writes that judges, as stated in their appointment regulations, should only rule on the most reliable opinions of their schools. Citing al-Mawardi’s *Al-Akhkam al-Sultaniyya*, he lists

nine practices specific to sultans and states that judges cannot apply them. Because it is not lawful to resort to methods other than Sharia rulings in a judicial capacity. He also shows, by citing the correspondence between Nur al-Din Zangi and Sheikh Umar, that justice can only be achieved through full adherence to the principles of Sharia [2:1127].

In the final part, he argues that enjoining good and forbidding evil is a general obligation (*fard al-kifa'*), and that this duty should be performed by scholars in particular. He argues that due to the vastness of the country and the multitude of duties, the sultan must appoint scholars to perform this duty, otherwise he will be held responsible. He divides those who perform this duty into two categories: those who give verbal advice, and those who intervene verbally and physically – “muhtasibs”. In the *Tashkuprizada*, he explains in detail the seven principles that the muhtasib must adhere to, as well as the definition and conditions of *munkar* (evil).

In conclusion, he states that the ruling does not change depending on whether the person who must intervene in the application of “*hisba*” (verification) is obligated or not, and that such *munkars* are forbidden in order to protect society. It is emphasized that intervention is only directed at actions that are considered *munkar* according to the Sharia, that actually exist and are openly committed, that espionage is prohibited, and that there is no intervention in matters that are open to *ijtihad* (independent thinking). Then, the main examples of *munkar* seen in mosques, markets, roads and public places, baths, meetings and expenses are listed. It is said that it is the duty of the muhtasib to prevent these. Thus, in addition to the theoretical basis, Akhmad Tashkuprizada clearly shows which actions should be interfered with and how in practice.

Conclusion

Akhmad Tashkuprizada’s “*Risala fi az-zebbi an-harimi ash-shari’at*”, written to respond to some of the accusations leveled against him during his time as a judge, is not only a personal defense, but also a valuable scientific document reflecting the legal understanding of the 16th century Ottoman Empire, the ethical foundations of the institution of the judge, and the judicial ethics of that time. The date of writing the treatise corresponds to the author's years as a judge, in particular, the discussions and criticisms he experienced during that period. The treatise consists of an introduction, four main sections, and a conclusion. The introduction examines the importance of human character, self-control, and moral qualities. The main sections respond to the accusations by presenting the religious and moral principles of the judge’s profession with evidence from the literature of *fiqh* and ethics.

This work not only contributes to the classical literature of jurisprudence and ethics, but also serves as a source for the study of Ottoman judicial thought. It also constitutes a historical testimony that shows the relationship between justice, virtue, and knowledge, starting from personal defense. In addition, this critical edition serves as a methodological model in textual publications and creates a solid foundation for the comparative study of Ottoman legal and ethical thought. Most importantly, it paves the way for new scholarly research.

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