

# Dr Didin 2

*by* Dr Didin 2 Dr Didin 2

---

**Submission date:** 16-Jun-2023 06:51AM (UTC+0700)

**Submission ID:** 2116925383

**File name:** e\_Thoughts\_of\_Muh\_ammad\_Ali\_al-S\_a\_bu\_ni\_in\_Rawa\_i\_al-Baya\_n.pdf (595.48K)

**Word count:** 10436

**Character count:** 51554

## THE DEVELOPMENT OF TARJĪḤ METHOD IN ISLAMIC LAW: Tracing the Thoughts of Muḥammad ‘Alī al-Ṣābūnī in *Rawāi‘ al-Bayān*

*Much. Mu’alim and Didin Baharuddin*  
Institut Agama Islam Negeri Ambon, Indonesia  
Email: [muchmualim@iainambon.ac.id](mailto:muchmualim@iainambon.ac.id)

### Abstract

This article aims to trace the thoughts of Muḥammad ‘Alī al-Ṣābūnī in an attempt to develop the tarjīḥ method through the interpretation of aḥkām verses in *Rawāi‘ al-Bayān* book. This is substantial to study since tarjīḥ is one of the solutions taken by many ‘ulamā’ when there is a contradicting argument. Besides, the tarjīḥ principles used by al-Ṣābūnī have distinction compared to other ‘ulamā’. This is library research included in a qualitative study, implementing a textual approach and Holsti’s version of content analysis. The analysis tools used in this article are tarjīḥ theories in *uṣūl al-fiqh*, both general theories of al-Shawkānī and al-Āmidī, which were then developed by Wahbah al-Zuhaylī, as well as the application theories of tarjīḥ Ḥusayn al-Ḥarbī. The results show that al-Ṣābūnī in *Rawāi‘ al-Bayān* develops certain tarjīḥ principles and implements the method which is in accordance with those principles. In this case, there are 22 tarjīḥ principles and 16 implementation methods, taken from the solid source and basis such as Quran naṣṣ, hadith, theories in ‘ulūm al-Qur’ān and *uṣūl al-fiqh*, as well as the arguments of previous ‘ulamā’. Implementation-wise, al-Ṣābūnī is able to do innovative and objective tarjīḥ which are far from madhhab’s fanaticism.

Artikel ini bertujuan untuk melacak pemikiran Muḥammad ‘Alī al-Ṣābūnī dalam upaya pengembangan metode tarjih melalui penafsiran ayat-ayat aḥkām pada kitab *Rawāi‘ al-Bayān*. Hal ini sangat penting untuk dikaji, sebab tarjih merupakan salah satu solusi yang ditempuh para ulama ketika terjadi pertentangan dalil. Di samping itu, prinsip-prinsip tarjih yang digunakan oleh al-Ṣābūnī memiliki distingsi yang membedakannya dari ulama lain. Penelitian kualitatif ini bersifat kepustakaan, dengan pendekatan tekstual, dan menggunakan content analysis versi Holsti. Adapun pisau analisis yang digunakan adalah teori-teori tarjih dalam *uṣūl al-fiqh*, baik teori-teori umum al-Shawkānī dan al-Āmidī, yang kemudian dikembangkan oleh Wahbah al-Zuhaylī, maupun teori-teori aplikasi tarjih Ḥusayn al-Ḥarbī. Hasil menunjukkan bahwa al-Ṣābūnī dalam kitab *Rawāi‘ al-Bayān* mengembangkan prinsip-prinsip tarjih tertentu dan menggunakan metode yang sesuai dengan prinsip-prinsip tersebut. Dalam hal ini, terdapat 22 prinsip tarjih dan 16 metode pelaksanaannya, yang diambil dari sumber dan landasan yang kuat, baik dari *naṣṣ al-Qur’an* dan hadis, teori-teori dalam bidang ‘ulūm al-Qur’an dan *uṣūl al-fiqh*, maupun pendapat para ulama terdahulu. Secara implementatif, al-Ṣābūnī mampu melakukan tarjih yang inovatif, objektif, dan jauh dari fanatisme mazhab.

**Keywords:** al-Ṣābūnī; implementation; tarjih principles

Received: September 9, 2022; Accepted: October 24, 2022

### Introduction

Tarjih has been known among ‘ulamā’ since the commencement of their various thoughts in multiple Islamic fields of science. It holds its own position after the emergence of *fiqh madhhab* (Islamic schools of thought) which marked the golden era of Islam. At the moment, Islamic thoughts were rapidly established. The evidence was seen in the uncountable number of scientific writings in varied fields of knowledge, as well as the existence of dialectic among imam (leaders) of *madhhab* and their followers in an attempt to seek the best solution for many legal problems. The ‘ulamā’ also developed Quran sciences, mainly those focusing on *istinbāt* (digging) Islamic law such as *qirā’ah* science (Sopyan 2010, 118). This is proven by the existence of *fiqh*-based *tafsir* works such as *Aḥkām al-Qur’an* by Muḥammad



ibn Idrīs al-Shāfi'ī (w. 204 H), *Aḥkām al-Qur'ān* by Abū Bakr al-Jaṣṣāṣ al-Ḥanafī, and al-Kiyā al-Harasī al-Shāfi'ī (al-Shāfi'ī n.d., I/14–15; Dimyathi 2019, 55).

In the mid-5th century, when *taqlīd* and debate were more dominant than *ijtihād*, *tarjih* came with the fanaticism color of the *madhhab*. Many 'ulamā' tended to do *hujjah* based on *tarjih*, both internal and external ways, or based on the attempt to search for “*ta'līl al-aḥkām*” legal reason. Internally, *tarjih madhhabī* is done between the students of imam (leaders) from one *madhhab* and their followers. Externally, it occurs between the followers of a certain *madhhab* and other *madhhabs* (al-Zuhaylī 2019, II/1171–1172). In addition, the massive number of *fiqh*-based *tafsīr* works also heated the debate, even, many of them do the *tarjih* to compare the *fiqh* opinion of their *madhhab* with others. Nonetheless, some of them were stuck in exaggerating *madhhab* fanaticism. It was seen in the *tarjih* implementation of *fiqh madhhab* arguments, such as *Aḥkām al-Qur'ān* by al-Jaṣṣāṣ al-Ḥanafī and *Aḥkām al-Qur'ān* by al-Kiyā al-Harasī al-Shāfi'ī (al-Jaṣṣāṣ 1992, II/136, III/65–69; al-Harasī 1983; Washil 2016).

The dialectic on *fiqh*-based *tafsīr* works is a proof of 'ulamā's earnest to uphold and defend their respective *madhhab* from the assault of other *madhhabs*. On the positive side, this is beneficial for the next generation. Because of an in-depth discussion about those works, they indirectly express all their thoughts based on their own *madhhab* in written form that can be a treasured *turāth* (heritage) to review and study further by the present generation. However, the exaggerating *madhhab* fanaticism is proven to neglect the objectivity of *mufassir* (tafsir expert) in examining others' works. It also triggers the long-term never-ending debate to date. Besides, there has been an orientation shift in the writing of *aḥkām*, verses *tafsīr*, which originally aims to create Quran-source laws, to be the place to defend *madhhab* of *fiqh* (Ahmad 2018; Faisal 2019; Zakiyah 2021).

The above fact eventually be the reason for the thoughts of modern 'ulamā' such as M. 'Abduh and Rashīd Riḍā, to exist, as well as the contemporary 'ulamā' e.g. M. 'Alī al-Sāyis, Wahbah al-Zuhaylī, and M. 'Alī al-Ṣābūnī to create a non-*madhhab* *tafsīr*. It means that the *tafsīr* works are free from the influence and fanaticism of certain *madhhab*. These kinds of works are made to stay objective to deliver the messages of the Quran by exploring each *madhhab*'s opinion in a proportional way. Even though the goals are similar, the results of all 'ulamā' can be different ('Abduh & Riḍā

1947; al-Zuhaylî 2009; al-Şâbûnî 2004; Kholid et. al. 2021; Jazil 2020; Kasdi 2019).

Among those contemporary *mufassir*, Shaykh Muḥammad ‘Alî al-Şâbûnî (hereinafter written as al-Şâbûnî) is the most solemn in doing *tarjih* in his *tafsir* work, namely *Rawâi‘ al-Bayân fî Tafsir Âyât al-Aḥkâm min al-Qur’ân*. He discussed the ‘ulamâ’s diverse opinions and solved them with the *tarjih* method. The proof is that, among 70 discussion materials of “*muḥâdarah*” of *Rawâi‘ al-Bayân tafsir*, more than 60 *tarjih* attempts were presented. Unlike al-Sâ’is who presented his *tafsir* in pure *taḥlîlî*, al-Şâbûnî presented it in the form of *taḥlîlî semi-mawḍû‘î*. This makes the readers easy to know the discussion classification based on certain themes on each group of *aḥkâm* verses he interprets (al-Şâbûnî 2004; Mu’alim 2019).

In interpreting *aḥkâm* verses, al-Şâbûnî tends to the scholastic phenomena which identify Islam with the teaching of four *madhhab*. Furthermore, he puts reasoning aside and always try to be under the shades of religion doctrine (Junaidi n.d., 247–260). What people should put in mind is that al-Şâbûnî is a *mufassir* whose background is a *faqîh* (an expert of *fiqh*). This what makes him special and distinctive compared to other *mufassir* since he is able to collaborate his two expertise in interpreting *aḥkâm* verses and applying *tarjih* on opinions of ‘ulamâ’ including *dalil* (proposition) they use (Haryono 2017, 56–67).

There were several relevant studies discussing the thoughts of al-Şâbûnî reflected on his *tafsir* works. In this paragraph, the authors want to explain the difference of the previous studies with the recent one. Junaidi pointed out that in interpreting the *aḥkâm* verses, al-Şâbûnî tend to the scholastic phenomena which identify Islam with the four *madhhab* (Islamic schools of thought). He also put the reasoning aside and always stick to the religion doctrine (Junaidi n.d., 247–260). Laila revealed the prominent values of *tafsir* in *Rawâi‘ al-Bayân*, which, according to her, ease the readers in determining the legal status of certain problem (Laila 2017). Another literature discusses the *tafsir* method in *Rawâi‘ al-Bayân* which is a combination of *tafsir bi al-ma’tḥûr* and *tafsir bi al-ra’yî*. The book also applies three methods, namely *taḥlîlî*, *mawḍû‘î*, and *muqâran* (Arifin 2014). Due to the distinctive *tafsir* method implemented by al-Şâbûnî, one study claims that al-Şâbûnî can be categorized as *mujtahid tarjih* (Haryono 2017, 56–67). In this article, the authors focused on exploring the *tarjih* of al-Şâbûnî, in order to enhance the *tarjih* method in Islamic law.



*Rawâi' al-Bayân* written by al-Şâbûnî is worth discussing in which *tarjih* practices are implemented in many discussions. Even though al-Şâbûnî has no specific book discussing the theories of *tarjih*, as an 'ulamâ' and academician, al-Şâbûnî definitely implements it on the basis of *tarjih* principles, and applies it using a certain method. Hence, this study is conducted to discover the implementation of *tarjih* principles by al-Şâbûnî in his book *Rawâi' al-Bayân*. This is significant to study in order to know how different the *tarjih* done by al-Şâbûnî compared to others, as well as to determine the *hujjah* (argument). Al-Şâbûnî's *tarjih* principles can also enrich the number of the existing *tarjih*.

### Research Method

This is a descriptive qualitative research, specifically a library study (Khatibah 2011). Practically, this is done to explore the implementation of *tarjih* performed by al-Şâbûnî in *Rawâi' al-Bayân* book, to find the principles and method of *tarjih* he used. The data were collected using documentation technique by reviewing the written document from both primary and secondary sources. The next step is to note and reduce (selection) the data in order to get the appropriate information related to the answer of the pre-determined question/problem, that is about the implementation of al-Şâbûnî's *tarjih* principles. The authors then did a narrative description by presenting some tables on the analysis results of *tarjih* practice implemented by al-Şâbûnî; it is classified based on the themes in *fiqh* discussion. This was done to explore al-Şâbûnî's *tarjih* principles and method. The authors also applied textual and content analysis approaches by using *tarjih* theories in *uşûl al-fiqh* (the *fiqh* principles), be it the general theories of al-Shawkânî and al-Âmidî, which were developed by Wahbah al-Zuhaylî, or the applied *tarjih* theories by Ḥusayn al-Ḥarbî (Mufid 1996, 107; Drago, 2016; al-Ḥarbî 1996; al-Shawkânî 2000; al-Zuhaylî 2019; al-Âmidî 2003).

### Result and Discussion

#### Muḥammad 'Alî al-Şâbûnî and His Productivity

The birth name of Shaykh Muḥammad 'Alî al-Şâbûnî was Muḥammad 'Alî, a son of Shaykh Jamîl al-Şâbûnî, a well-known 'ulamâ' in a region called Ḥalb or known as Aleppo, Syria. A source states that he was born in 1298 AD (1347 AH). Meanwhile, a different source writes January 1, 1930 AD as al-Şâbûnî's birth date (Iyâzî 1993, 470).

He learned directly from his father and other teachers, such as Shaykh Muḥammad Sa'īd al-Idlibī, Shaykh Muḥammad Najīb Sirāj al-Dīn, Shaykh Muḥammad Rāghib al-Ṭabbākh, Shaykh Aḥmad al-Ṣama, and Shaykh Muḥammad Najīb Khayyāṭah (Arifin 2014, 58–59). After completing his study at Madrasa al-Tijāriyyah, he continued his education in Khaswawiyya, Aleppo until 1949. After graduating, he pursued his higher education at Sharia Faculty, Al-Azhar University, Cairo, Egypt holding a scholarship from his country. He graduated from the said institution in 1952 achieving *tafawwuz* (superior/excellent) score. Being a Philomath, he pursued his Master Degree at *takhaṣṣuṣ Qadā' Shar'i*, Study Program and graduated in 1954 with *mumtāz* or *cum laude* (Haryono 2017, 57).

After finishing his education in Egypt, al-Ṣābūnī went back to Aleppo and began his career in education, from 1955 to 1963. He accepted the offer to be transferred to KSA (Kingdom of Saudi Arabia), as an assisting lecturer delegated by Department of Education of Syria and was placed in two prominent universities, namely Umm Al-Qura University and King Abdul Aziz University which are located in Mecca. During his career in Umm Al-Qura University, he was once assigned as the Dean of Sharia Faculty and the Head of The Center for Scientific Research and Revival of Islamic Heritage. At the same time, he was one of the professors in King Abdul Aziz University (Arifin 2014, 61).

For 8 years al-Ṣābūnī actively conducted numerous studies and general lectures on *tafsīr* for the public in Masjid al-Ḥarām and other places. Those studies were recorded, some of which were even published on television. The recording of al-Ṣābūnī's discussion and public lectures were done until 1998. He was coronated as the Personality of the Muslim World by the committee of Dubai International Quran Award (DIQA) in 2007. This coronation was directly led by The Vice Chief of Dubai Government, Prince Muḥammad ibn Rashīd al-Maktūm, after going through the thorough selection process along with other candidates. This award was also given to several great figures such as Shaykh Yūsuf al-Qaraḍawī. Al-Ṣābūnī was once appointed as the advisor of The Board of Research and Scientific Study focusing on Quran and Sunnah in The Muslim World League. In his own country, he was inaugurated as The Head of Syrian Ulama Council (Arifin 2014; al-Ṣāliḥ 2003, 253; Haryono 2017, 57). On Friday, March 19, 2021 in Yalwa, Turkey, he passed away, leaving many great contributions to the development of Islamic science (Aljazeera.net 2021).



### **Tarjih al-Şâbûnî in His Book *Rawâi' al-Bayân***

*Tarjih* is one of solutions taken by *mujtahid* (the authoritative of Islamic law), when dealing with *ta'arud al-adillah* (the contradiction of proposition), in their *ijtihad* process (Jalil 2017). The contradiction can be found among the Quranic verses, between Quranic verse and sunnah, among sunnah, between sunnah and *qiyâs*, and among *qiyâs*. Furthermore, many 'ulamâ' of *uşûl al-fiqh* also divide the *tarjih* object in some categories, they are (a) *tarjih sanad*; (b) *tarjih matn*; (c) *tarjih* on the law contained *naşş*; and (d) *tarjih* on external factors (Yaqin 2015, 108-127; Hidayatullah 2018, 113-132; Dahliah 2013). Not only is it used to trace the contradicting propositions and to find the most prominent (*rajih*) one, *tarjih* also determine the position of 'ulamâ' or *madhhab*'s arguments whose opinions are often opposite (Rosyadi 2017, 11-17).

Al-Şâbûnî divides the discussion in *Rawâi' al-Bayân fî Tafşîr Âyât al-Ahkâm min al-Qur'ân* book into two *juz* (chapters). Each chapter contains the interpretation on *ahkâm* verses, composed thematically based on the big theme of certain or several verses, and based on the sequence/order in *mushaf al-Qur'ân*. The first chapter of the book discusses the interpretation of *ahkâm* verses from Q.S. al-Fâtiḥah [1] to Q.S. al-Ḥajj [22]: 37, containing 40 themes (*muhâḍarah*). Meanwhile, the second chapter discusses the *ahkâm* verses from Q.S. al-Nûr [24]: 1 to Q.S. al-Muzzammil [73]: 10, containing 30 themes in total, most of which are done by *tarjih* on the problems discussed in the book (al-Şâbûnî 2004).

In *Rawâi' al-Bayân*, more than 60 issues in Islamic law (*fiqh*) are solved by *tarjih* method. The authors, in this study, analyzed and explore the principles and method implemented by al-Şâbûnî in doing the *tarjih*, based on the discussion category. The first category is *tarjih* method and principles in *fiqh* of worship matters (Table 1), in which there are 11 problems solved by al-Şâbûnî through *tarjih*. They are, (a) *basmalah* issue in the Quran; (b) issue on the accuracy of *qibla* for prayer (*salat*); (c) issue on *sa'i* position in hajj rituals; (d) issue on the Quran teachers' salary; (e) issue on *rukḥşah* of fasting for patients and *muşâfir* (traveler); (f) issue on *iḥşâr* (obstruction) in hajj e.g. the causal factors of *iḥşâr*; (g) issue on the animal slaughter (*hadyu*) place for *muḥşar* (the person facing obstruction); (h) issue on *murtad*



(apostasy); (i) the criteria of *safar* (travel) for applying *rukḥṣah qaṣr* (the concession for shortening the prayer); (j) issue on the exclusivity of *Masjid* (mosque) in Q.S. al-Taubah [9]: 17; and (k) issue on *salawat* (the prayer or salutation for the Prophet) outside *salat* performance.

Table 1  
Tarjih Method and Principles in *Fiqh* of Worship

No	Tarjih Issues	Tarjih Results	Tarjih Principles	Tarjih Method
1	<i>Basmalah</i> issue in the Quran (Q.S. al-Fātiḥah)	<i>Basmalah</i> is a part of the Quran, yet is not a part of verse of any surah. It functions as a <i>fāsilah</i> (a separator among surah) (al-Ṣābūnī 2004, I/37).	Firmly holding to the principles of avoiding the contradicted opinions	<i>Tarjih</i> is implemented by using <i>ra'yu</i> or choosing moderate opinion and avoiding the current debate
2	Issue on the accuracy of <i>qibla</i> for <i>salat</i> (Q.S. al-Baqarah [2]: 144)	In performing <i>salat</i> , we do not have to face <i>ka'bah</i> ( <i>qibla</i> ) accurately since it is not an obligation (al-Ṣābūnī 2004, I/91).	The principle is to refuse any difficulty or trouble	Performing <i>tarjih</i> by choosing an opinion in accordance with <i>tarjih</i> principle and logical thinking
3	Issue on <i>sa'i</i> position in hajj rituals (Q.S. al-Baqarah [2]: 158).	<i>Sa'i</i> is one of hajj pillars. If it is not performed, the hajj is imperfect and invalid (al-Ṣābūnī 2004, I/98).	An obligation to follow the <i>manasik</i> (rituals) from The Prophet (PBUH)	Choosing the opinion which states the proposition about an obligation to follow the <i>manasik</i> (rituals) from The Prophet (PBUH)
4	Issue on the Quran teachers'	It is allowed to take payment from teaching Quran and	To hold on facts: that law changes depending on	Using <i>mafḥūm muwāfaqah</i> ; <i>fahw al-khitāb</i> .



	salary (Q.S. al-Baqarah [2]: 160)	religious lessons, so, Muslim do not underestimate religion matters (al-Şâbûnî 2004, I/107).	space and time	There are people underestimating the profession of a teacher of religious lessons even when they are paid. Let alone if they do it for free.
5	Issue on <i>rukḥṣah</i> of fasting for patients and <i>musâfir</i> (Q.S. al-Baqarah [2]: 184)	Travelling ( <i>safar</i> ) and illness which cause <i>mashaqqah</i> (trouble) are granted with <i>rukḥṣah</i> ; not doing fasting in Ramaḍân month (al-Şâbûnî 2004, I/143).	Holding to <i>hikmah</i> (a wisdom) of <i>rukḥṣah</i> legislation, that is to avoid any trouble	Performing <i>tarjih</i> by using logic and choosing the opinion of <i>Jumhûr</i> (the majority of 'ulamâ')
6	Issue on <i>iḥṣâr</i> in hajj rituals: the causal factors of <i>iḥṣâr</i> ". (Q.S. al-Baqarah [2]: 196)	The law on <i>iḥṣâr</i> is valid for public; for anything that can distract one/s from performing hajj such as illness and loss of property. It is not only about the obstruction from the enemy (al-Şâbûnî 2004, I/175).	Implementing the general <i>lafaz</i> and avoiding difficulty	<i>Tarjih</i> is implemented using the general <i>lafaz</i> , even though it ignores the opinion of <i>Jumhûr</i> .
7	Issue on <i>iḥṣâr</i> in hajj rituals: the animal slaughter ( <i>hadyu</i> ) place for <i>muḥṣar</i> (Q.S. al-Baqarah [2]: 196)	<i>Muḥṣar</i> is allowed to slaughter <i>hadyu</i> (the sacrificial animal) wherever he/she finds obstruction when performing hajj; it is not limited only in <i>ḥarâm</i> site (al-Şâbûnî 2004, I/176).	Referring to the obligation to follow the Prophet's teaching in manasik of hajj	Implementing <i>tarjih</i> by choosing the argument which is similar to the Prophet's sunnah and is supported by ( <i>Jumhûr</i> ).
8	Issue on <i>murtad</i>	The apostates' good deeds are considered	Holding to <i>zâhir al-naṣṣ</i> ; in this	<i>Tarjih</i> is done by choosing

	(apostasy) (Q.S. al-Baqarah [2]: 217)	void once they decide to change the religion. Hence, if they repent, they need to redo everything from the start (al-Şâbûnî 2004, I/177).	case is the regulation written in Q.S. al-Zumar: 65, al-Mâ'idah; 5.	the argument of the majority of 'ulamâ' ( <i>Junhûr</i> ) who apply <i>zâhir al-naşs</i> .
9	Issue on the criteria of <i>safar</i> for applying <i>rukḥṣah qaşar</i> in prayer (Q.S. al-Nisâ' [4]: 101)	The concession ( <i>rukḥṣah</i> ) for <i>qaşar</i> (shortening) <i>salat</i> is allowed for traveling included in the <i>mubah</i> criteria, not for <i>maksiyat</i> (sinful acts) (al-Şâbûnî 2004, I/370).	Following <i>sunnah nabawiyah</i>	<i>Tarjih</i> is done by implementing one reference ( <i>riwayat</i> ) discussing about the permission for doing <i>qaşar</i> when traveling, as long as it is a <i>mubah</i> travel
10	Issue on the exclusivity of <i>Masjid</i> (mosque) in Q.S. al-Tawbah [9]: 17	The term " <i>masjid</i> " in the verse is applied in general, for all mosques (al-Şâbûnî 2004, I/410).	Referring to <i>zâhir al-naşs</i> .	<i>Tarjih</i> is done by implementing the general <i>zâhir al-naşs</i>
11	Issue on <i>salawat</i> outside <i>salat</i> performance (Q.S. al-Aḥzâb [33]: 56)	Reciting <i>Şalâwat</i> (outside <i>şalât</i> ) is done at least once in a lifetime. However, it is <i>sunnah</i> to recite it whenever (al-Şâbûnî 2004, II/263-264).	Referring to the origin of law on worship issues by doing <i>dhikr</i> .	<i>Tarjih</i> is done by selecting the argument supported by the majority of 'ulamâ' and is in line with <i>tarjih</i> principles

The second category is *tarjih* method and principles in *fiqh mu'âmalah* matters (Table 2). In *Rawâi' al-Bayân*, there are three issues solved by implementing *tarjih* method: (a) issue on types of *akad* (contract or agreement) in the statement "*awfû bi al-'uqûd*" (fulfilling the contracts or



keeping the promises) in Q.S. Al- Mâidah [5]: 1; (b) issue on the proposal of *akad kitâbah* by a slave; and (c) issue about guest ethics.

Table 2  
*Tarjih* Principles and Method on *Fiqh Mu'amalah* Issues

No	<i>Tarjih</i> Issues	<i>Tarjih</i> Results	<i>Tarjih</i> Principles	<i>Tarjih</i> Method	<i>Tarjih</i> Issues
1	Issue on types of <i>akad</i> in the statement "awfû bi al-'uqûd" (Q.S. al-Mâidah [5]: 1)		The statement is generally applicable for all contracts ( <i>akad</i> ), not only for sharia contract (al-Şâbûni 2004, I/377).	Referring to the understanding of <i>zâhir al-naşş</i>	It follows <i>tarjih</i> results done by al-Ṭabarî and <i>Jumhûr mufasssîrîn</i> because the supporting <i>riwayat</i> exists
2	Issue on the proposal of <i>akad kitâbah</i> by a slave (Q.S. al-Nûr [24]: 33)		A <i>sayyid</i> (a slave owner) is not obliged to grant his slave's request to do <i>akad kitâbah</i> . Even if he wants to grant it, it is a sunnah (al-Şâbûni 2004, II/138140).	For the sake of <i>maslahat</i> (in terms of the rights for property ownership)	<i>Tarjih</i> is done by finding correlation ( <i>munâsabah</i> ) between verse and hadith concerning the making of <i>akad kitâbah</i> .
3	Issue about guest ethics (Q.S. al-Nûr [24]: 27)		When being a guest, it is a must to first greet and ask for permission. This fits in the society or	Following something appropriate and fits in the condition	<i>Tarjih</i> is done by choosing the more applicable opinion based on

environment where the house owner lives in (al- Şâbûnî 2004, II/97).	the situation and condition which are different one another
---	--

The third category is *tarjih* method and principles in *Fiqh al-Munâkahât* (Table 3). In this category, there are 22 *tarjih* issues solved by al-Şâbûnî: (a) issue on *istimtâ'* (seeking pleasure) when the wife is on her menstruation period; (b) issue on the meaning of *qurû'*; (c) issue on the validity of the direct triple *ṭalâq* (divorce); (d) issue on the manipulation of *muḥallil* marriage; (e) issue on the maximum limit for polygamy; (f) issue on the adult *safih*'s (person who is mentally weak) property management; (g) issue on orphans' property management; (h) issue on the minimum amount of *mahar* (the marriage gift given to the bride by the groom); (i) issue on the implementation of *nushûz* (a disobedient act of a spouse) sanction; (j) issue on the meaning of *lâmastum al-nisâ'* (having physical contact with women); (k) issue on the original law of marriage; (l) issue on the minimum age of *bâligh*; (m) issue on the minimum age of *raḍâ'*; (n) issue on the prohibition to marry the Prophet's ex-wife; (o) the dowry payment issue because of the legal *khalwat* (any male Muslim found in close proximity with a female Muslim); (p) issue on giving *mut'ah* (a temporary marriage that is contracted for a limited or fixed period) to ex-wives; (q) issue on marriage using *hibah* contract (akad); (r) issue on the prerequisite for the future wife of the Prophet PBUH; (s) issue on *qasm* for the Prophet; (t) issue on *istimtâ'* during *zihâr*; (u) issue on the meaning of *al-'Awd* in verse *zihâr*; (v) issue on the consummation of marriage before paying *kafârat zihâr*.

Table 3  
*Tarjih* Method and Principles in *Fiqh al-Munâkahât*

No	<i>Tarjih</i> Issues	<i>Tarjih</i> Results	<i>Tarjih</i> Principles	<i>Tarjih</i> Method
1	Issue on <i>istimtâ'</i> (seeking pleasure) when the wife is on	<i>Istimtâ'</i> when the wife on menstruation is <i>haram</i> , if it is done	Based on the circumspection factor	Ignoring <i>tarjih riwâyat</i> and choosing the argument

	her menstruation period (Q.S. al-Baqarah [2]: 222)	between the knees and the navel (al-Şâbûnî 2004, I/211).		containing the circumspection elements
2	issue on the meaning of <i>qurû'</i> (Q.S. al-Baqarah [2]: 228)	The meaning of <i>qurû'</i> is haid (period), not pure, even though it is different from the real meaning lexically (al-Şâbûnî 2004, I/233).	Grounding on the term used in <i>shâri'</i> , not on the lexical meaning	Doing <i>tarjih</i> among many <i>riwâyat</i> and following the one done by Ibn al-Qayyim al-Jawziyah
3	Issue on the validity of the direct triple <i>ṭalâq</i> (Q.S. al-Baqarah [2]: 229-230)	The triple <i>ṭalâq</i> stated all at once is considered legal as the third <i>ṭalâq</i> (al-Şâbûnî 2004, I/237).	Based on the agreement or consensus ( <i>ijmâ'</i> ) of the companions	Choosing the prominent <i>dalil</i> since it is taken from the Prophet companions' <i>ijmâ'</i> in the mid-era of Umar Caliph
4	Issue on the manipulation of <i>muḥallil</i> marriage (Q.S. al-Baqarah [2]: 230)	The manipulated <i>muḥallil</i> marriage is illegal (al-Şâbûnî 2004, I/241).	Based on the prohibition of marriage with the predetermined period of time i.e. <i>muṭ'ah</i> marriage	Performing <i>qiyâs</i> on the prohibition of <i>muṭ'ah</i> marriage
5	Issue on the maximum limit for polygamy (Q.S. al-Nisâ' [4]: 3)	The letter wawu (Ar. and) in the statement " <i>mathnâ wa thulâtha wa ruba'a</i> " means <i>takhyir</i> (choice), not an accumulation (al-Şâbûnî 2004, I/303).	Based on the teaching from the Prophet PBUH	Based on numerous <i>riwâyat</i> related to the limitation of polygamy i.e. four wives at most
6	Issue on the adult <i>safih</i> 's property management	The property of adult ( <i>bâligh</i> ) <i>safih</i> is still managed by <i>wali</i> (family or appointed	Based on the factors of <i>maşlahah</i> (for the sake of	<i>Tarjih</i> is done by implementing a <i>riwâyat</i>



	(Q.S. al-Nisâ' [4]: 6)	representative) (al-Şâbûnî 2004, I/314)	<i>safih</i> ).	discussing about the custody of adult <i>safih</i>
7	Issue on orphans' property management (Q.S. al-Nisâ' [4]: 6)	If the orphan's guardian is poor, he is allowed to take the orphan's wealth by applying a debt system (al-Şâbûnî 2004, I/315).	Based on the factors of <i>maşlahah</i>	<i>Tarjih</i> is implemented based on the <i>riwâyat</i> from 'Umar ibn Khaţţâb concerning the position of Caliph on <i>bayt al-mâl</i> , e.g. the guardian of an orphan
8	Issue on the minimum amount of <i>mahar</i> (Q.S. al-Nisâ' [4]: 24)	No minimum amount of <i>mahar</i> in a wedding (al-Şâbûnî 2004, I/323).	Following the Prophet's sunnah	<i>Tarjih</i> is performed by applying the <i>riwâyat</i> concerning the amount of <i>mahar</i> in a wedding ritual
9	Issue on the implementation of <i>nushûz</i> sanction (Q.S. al-Nisâ' [4]: 35)	The sanction for a wife disobeying her husband must be done in sequence based on the guidelines in the verse (al-Şâbûnî 2004, I/336).	Based on the real understanding from <i>zâhir al-naşş</i>	<i>Tarjih</i> is performed by applying <i>naşş</i> in order, start from the light punishment to the heavy one
10	Issue on the meaning of <i>lâmastum al-nisâ'</i> (Q.S. al-Nisâ [4]: 43)	The term " <i>lâmastum al-nisâ'</i> " means <i>jimâ'</i> (sexual intercourse). It is not merely physical contact such as touching nor is it a figurative language ( <i>majâz</i> ) (al-Şâbûnî 2004, I/349).	Based on the rules of <i>shâri'</i> on certain <i>lafaz</i>	<i>Tarjih</i> is done by implementing <i>riwâyat</i> and combining the arguments of al-Ṭabarî and Ibn al-Rushd. In this case, the meaning used



				in shâri' is favored, even though it is a form of <i>majâz</i>
11	Issue on the original law of marriage (Q.S. al-Nûr [24]: 32)	The law of origin concerning marriage states that it is sunnah (an advice or recommendation) (al-Şâbûnî 2004, II/135).	Following the teaching of the Prophet	<i>Tarjih</i> is applied based on numerous <i>riwâyat</i> advising people to marry. The <i>riwâyat</i> for those disobeying sunnah also exist
12	Issue on the minimum age of <i>bâligh</i> (Q.S. al-Nûr [24]: 59)	The determination of <i>baligh</i> is based on the custom/' <i>âdah</i> in society, that is 15 years old (al-Şâbûnî 2004, II/153-154).	Referring to the custom since it can be the source of law	<i>Tarjih</i> is done by choosing the opinion based on society's habit or custom
13	Issue on the minimum age of <i>radâ'</i> (Q.S. Luqmân [31]: 14)	The regulation on <i>radâ'</i> is applied if the breastfeeding process for a baby is done within 2 years (al-Şâbûnî 2004, II/177-178).	Based on <i>zâhir al-naşş</i> , without conducting <i>ta'wil</i> .	<i>Tarjih</i> is performed by choosing the argument which is suitable for the implementation <i>zâhir al-naşş</i>
14	Issue on the prohibition to marry the Prophet's ex-wife (Q.S. al-Ahżâb [33]: 6)	The prohibition to marry the prophet's ex-wife is valid only if the ex-wife has experienced the consummation of the marriage. Other than that, it is not prohibited (al-Şâbûnî 2004, II/203).	Adhered to the actions of the prophet's companions to make the legal decision applied for a person who married the prophet's ex-wife	<i>Tarjih</i> is carried out based on the actions taken by 'Umar RA., the second caliph of Islam, who nullified <i>had rajam</i> /stoning towards Ash'ath who married <i>musta'idhah</i> , since she had



				never experienced the consummation of the marriage before the prophet divorced her.
15	The dowry payment issue because of the legal <i>khalwat</i> (Q.S. al-Aḥzâb [33]: 49)	Legal <i>khalwat</i> determines dowry and requires the implementation of 'iddah if divorce happens although both parties did not do <i>jimâ'</i> (al-Şâbûnî 2004, II/212).	Upholding the teaching of the Prophet (PBUH)	<i>Tarjih</i> is implemented by choosing the opinion, which is supported by many <i>riwâyat</i> although it is contrary to <i>ẓâhir al-naṣṣ</i> .
16	Issue on giving <i>mut'ah</i> to ex-wives (Q.S. al-Aḥzâb [33]: 49)	A woman who is divorced ( <i>muṭallaqah</i> ), whose dowry has not been determined and has not experienced consummation of marriage, must be given <i>mut'ah</i> . However, if the dowry has been determined, giving <i>mut'ah</i> will not be an obligation (sunnah) (al-Şâbûnî 2004, II/213–214).	Using the strongest propositions ( <i>dalil</i> ) and opinions of the companions of the Prophet as the basis of certain actions.	Doing <i>tarjih</i> by selecting the opinions that are supported by strong <i>riwâyat</i> , <i>ẓâhir al-naṣṣ</i> , and being able to make a decision after considering many opinions proposed in the midst of a problem
17	Issue on marriage using <i>hibah</i> contract (Q.S. al-Aḥzâb [33]: 50)	Using <i>hibah</i> in the marriage contract, without giving dowry, is considered as the specialties of the Prophet PBUH (al-Şâbûnî 2004, II/224).	Believing in <i>ẓâhir al-naṣṣ</i> and <i>sunnah nabawiyah</i> .	<i>Tarjih</i> is carried out by selecting the opinion that accommodates the content of <i>ẓâhir al-naṣṣ</i> (verses) and practice of the sunnah of the



				Prophet
18	Issue on the prerequisite for the future wife of the Prophet PBUH (Q.S. al-Aḥzāb [33]: 50)	The criteria for the prophet's wife does not need to include <i>muhājirah</i> (the woman who hijrah/migrate to Madinah); however, if she is a <i>muhājirah</i> , then she will be prioritized (al-Ṣābūnī 2004, II/225).	Based on <i>ẓāhir al-naṣṣ</i> and <i>ra'yu</i> .	<i>Tarjih</i> is performed by selecting the opinion that fits the comprehensive understanding in <i>ẓāhir al-naṣṣ</i> .
19	Issue on <i>qasm</i> for the Prophet (Q.S. al-Aḥzāb [33]: 50)	<i>Qasm</i> , which is giving turns to stay in the wife's house, is not an obligation for the Prophet PBUH to do (al-Ṣābūnī 2004, II/226-227).	Adhered to <i>ẓāhir al-naṣṣ</i>	Performing <i>tarjih</i> by selecting the opinion that practices <i>ẓāhir al-naṣṣ</i>
20	Issue on <i>istimtā'</i> during <i>ẓihār</i> (Q.S. al-Mujādilah [58]: 3)	<i>Istimtā'</i> that is enjoying some fun with the wife who is labeled <i>ẓihār</i> (although she did not do <i>jimā'</i> ), is <i>haram</i> (prohibited) (al-Ṣābūnī 2004, II/380-381).	Being aware of facing legal problems	<i>Tarjih</i> is performed by selecting the opinion that involves greater awareness than other opinions have
21	Issue on the meaning of <i>al-'Awd</i> in verse <i>ẓihār</i> (Q.S. al-Mujādilah [58]: 3)	The meaning of the word refers to the wife; it is not the repetition of statement <i>ẓihār</i> , (al-Ṣābūnī 2004, II/381-382).	Based on <i>ẓāhir al-naṣṣ</i>	Performing <i>tarjih</i> by choosing the opinion that is in accordance with <i>ẓāhir al-naṣṣ</i>
22	Issue on the consummation of marriage before paying <i>kafārat ẓihār</i> (Q.S. al-	Performing <i>jimā'</i> before paying <i>kafārat ẓihār</i> will lead to a great sin (al-Ṣābūnī 2004, II/386).	Adhered to the commandment of the Prophet PBUH	Choosing the opinion that has been approved by the commandment of the Prophet

Mujādilah [58]: 3)	PBUH.
-----------------------	-------

The fourth category is about the principle and method of *tarjih* in *mawāriṭh fiqh* problem. Only one problem arises (Table 4), related to *tarjih*, which is *dhaw al-arḥām* inheritance.

Table 4  
*Tarjih* Principles and Method in *Fiqh* of *Mawāriṭh*

<i>Tarjih</i> Issues	<i>Tarjih</i> Results	<i>Tarjih</i> Principles	<i>Tarjih</i> Method
<i>Dhaw al-arḥām</i> inheritance (Q.S. al-Aḥzāb [33]: 6)	If there is no <i>dhaw al-furuḍ</i> and <i>dhaw al'aṣābah</i> , then <i>dhaw al-arḥām</i> deserves the inheritance instead of <i>bayt al-māl</i> (al-Ṣābūnī 2004, II/203–204).	Adhered to the clear understanding of <i>naṣṣ</i> ( <i>ẓāhir al-naṣṣ</i> ).	Performing <i>tarjih</i> by choosing the opinion that integrated the implementation of verses and the prevailing sunnah

Fifth, the *tarjih* principle and method in *siyāsah fiqh* problem and the relationship between countries (Table 5). In this case, only six problems that can be solved using the *tarjih* method. Those are: (a) the limitation of criteria of *mushrik* (a person who believes in another deity together with Allah the Almighty) issue; (b) the issue of *najis* (ritually unclean/impurities) of *mushrik* people; (c) the issue of the amount of *jizyah* (a capitation tax formerly levied on non-Muslims by an Islamic state); (d) the issue of the meaning of the *lafaz* of “*ḍarb al-riqāb*” (strike their necks) in Q.S. Muḥammad [47]: 4; (e) the issue of ransom payment for prisoners of war confined by the enemies; and (f) the issue of property of *bughāt*.

Table 5  
*Tarjih* principle and method in *Siyāsah Fiqh* problem and the relationship between countries

No	<i>Tarjih</i> Issues	<i>Tarjih</i> Results	<i>Tarjih</i> Principles	<i>Tarjih</i> Method
1	Issue on the limitation of <i>mushrik</i> criteria	All <i>kāfir</i> people are categorized as <i>mushrik</i> , including <i>ahl al-</i>	Adhered to the fact that <i>ahl al-kitāb</i> did <i>shirk</i> against Allah the Almighty.	<i>Tarjih</i> is performed by choosing the opinion that

	(Q.S. al-Tawbah [9]: 28)	<i>kitāb</i> (Yahūdī and Naṣrānī), because of <i>shirk</i> (al-Ṣābūnī 2004, I/415).		fits well in reality, containing the fact regarding <i>shirk</i> that the <i>kāfir</i> people committed
2	Issue on <i>najis</i> of <i>mushrik</i> people (Q.S. al-Tawbah [9]: 28)	The <i>najis</i> of <i>mushrik</i> people is <i>ma'nawī</i> (abstract); it is not genuine (al-Ṣābūnī 2004, I/416).	Adhered to sunnah nabawiyah.	Performing <i>tarjih</i> by implementing the opinion supported by <i>riwāyat</i> .
3	Issue on the amount of <i>jizyah</i> (Q.S. al-Tawbah [9]: 29)	The amount of <i>jizyah</i> imposed on <i>kāfir dhimmi</i> is different, as in accordance with <i>ijtihād</i> (al-Ṣābūnī 2004, I/417-418).	Adhered to the <i>ijtihād</i> of the prophet's companions.	<i>Tarjih</i> is performed by implementing the <i>riwāyat</i>
4	Issue on the meaning of <i>ḍarb al-riqāb</i> (Q.S. Muḥammad [47]: 4)	The words in that verse mean "war" (al-Ṣābūnī 2004, II/325).	Adhered to <i>zāhir al-naṣṣ</i> and <i>ra'yu</i> .	Performing <i>tarjih</i> by selecting the opinion that fits the understanding of <i>zāhir al-naṣṣ</i> comprehensively
5	Issue on ransom payment for prisoners of war confined by the enemies (Q.S. Muḥammad [47]: 4)	It is allowed to ask for ransom payment as the requirement to release the prisoners of war (al-Ṣābūnī 2004, II/330).	Based on <i>zāhir al-naṣṣ</i> , <i>riwāyat</i> , and the interpretation of <i>ra'yu</i>	<i>Tarjih</i> is done by implementing <i>zāhir al-naṣṣ</i> supported by <i>riwāyat</i> and the proposition of 'aqli.
6	Issue on the	The property of	Based on the	Performing

property status of <i>bughât</i> (Q.S. al-Hujurât [49]: 9)	<i>bughât</i> is forbidden to be seized to use as <i>ghanimah</i> , (al-Şâbûnî 2004, II/354-355).	agreement ( <i>ijmâ'</i> ) made among the companions of the prophet	<i>tarjih</i> by selecting the opinion supported by the agreement ( <i>ijmâ'</i> ) made among the companions of the prophet
--	---	---	---

The sixth category is the principle and method of *tarjih* in the issue of *Jinâyah Fiqh* (Table 6). In this case, there are sixteen issues that are solved by using the *tarjih* method. Those are (a) the issue of the fact of sorcery; (b) the issue of the murder of Muslim slaves; (c) the issue of the murder of a *dhimmi*; (d) the issue of *khamr* in certain terms; (e) the issue of the criminals who took refuge in *Harâm* site/land; (f) the issue of intentional murder; (g) the issue of the legal status of *khamr*; (h) the issue of combined *had* of *zina*; (i) the issue of *had* of *zina* for *dhimmi muḥṣan*; (j) the issue of the executor of *had* for slaves; (k) the issue of the accusation of *zina* towards a group; (l) the issue of the right of ownership of *had qadhaf*; (m) the issue of the parties rejecting *li'an* pledge; (n) the issue of the husband's confession of giving lies after saying the *li'an* pledge; (o) the issue of violating the pledge because of something better; and (p) the issue of *qişâş* of the one gouging the eyes of the peepers out.

Table 6  
*Tarjih* Principles and Method on the Issues of *Jinâyah Fiqh*

No	<i>Tarjih</i> Issues	<i>Tarjih</i> Results	<i>Tarjih</i> Principles	<i>Tarjih</i> Method
1	Issue on the fact of sorcery (Q.S. al-Baqarah [2]: 102)	Sorcery really exists and is real. It has effects on human beings; it is not merely a visual deception (al-Şâbûnî 2004, I/57).	Adhered to the principles of conformity (between theory and reality)	<i>Tarjih</i> is performed by choosing the opinion that depicts the reality within the society well
2	Issue on the murder of Muslim slaves (Q.S.	An independent Muslim who killed a Muslim slave will receive <i>qişâş</i> (al-	The equality of Muslims before the law.	Performing <i>tarjih</i> by considering the general matters

	al-Baqarah [2]: 178)	Şâbûnî 2004, I/125).		covered in <i>qisâs</i> and <i>munâsabah</i> verses, as well as hadith
3	Issue on the murder of a <i>kâfir dhimmî</i> (Q.S. al-Baqarah [2]: 178)	A muslim killing <i>kâfir dhimmî</i> , is not punished with <i>qisâs</i> (al-Şâbûnî 2004, I/125).	The dignity of Muslims is above the <i>kâfir</i> .	<i>Tarjih</i> is performed by using the generalization of the <i>lafaz</i> in the verse
4	Issue on <i>khamr</i> in certain terms (Q.S. al-Baqarah [2]: 219)	The term " <i>khamr</i> " does not only refer to the squeeze of the fermented grape, but also refers to all kinds of drink that make people drunk (al-Şâbûnî 2004, I/198).	Adhered to the agreement ( <i>ijmâ'</i> ) of the companions of the Prophet (defeated the linguistic meaning)	<i>Tarjih</i> is performed by choosing the opinion that is made based on the experiences of the companions of the prophet, which is supported by <i>Jumhûr</i> , although it does not fit the linguistic meaning
5	Issue on the criminals who took refuge in <i>Harâm</i> site (Q.S. Âlu 'Imrân [3]: 96-97)	The criminals ( <i>jinâyah</i> ) who took refuge in the <i>Harâm</i> site; can still be given <i>qisâs</i> (al-Şâbûnî 2004, I/292).	Based on the principle of social benefit and the prohibition to offer some helps in committing bad deeds	<i>Tarjih</i> is performed by implementing the sunnah of the prophet, which is associated with the action that the prophet once did, which was giving the death penalty to the <i>mushrik</i> in the <i>Harâm</i> site
6	Issue on the intentional	The criteria of murder that was	The wisdom of <i>tashri qisâs</i> is to preserve	<i>Tarjih</i> can be performed by



	murder (Q.S. al-Nisâ' [4]: 93)	committed intentionally had not always been executed using swords, but any deadly weapon would do (al-Şâbûnî 2004, I/358).	the social benefit	choosing the opinion that conveys a greater social benefit
7	Isu the legal status of <i>khamr</i> (Q.S. al-Mâ'idah [5]: 90)	Legally, consuming <i>khamr</i> is <i>haram</i> , and the product is considered <i>najis</i> (al-Şâbûnî 2004, I/405).	Based on <i>zâhir al-naşş</i> and the decisions made by the prophet	Performing <i>tarjih</i> by implementing the <i>riwâyat</i> about <i>haram</i> and the <i>najis</i> of <i>khamr</i>
8	Issue on combined <i>ḥad</i> of <i>zina</i> (Q.S. al-Nûr [24]: 2)	Stoning and whipping cannot be combined for one case of <i>ḥad</i> of <i>zina</i> . Both of them are separated based on the different characteristics of the perpetrator of <i>zina</i> ; <i>muḥşan</i> or <i>ghayr muḥşan</i> , (al-Şâbûnî 2004, II/20).	Based on <i>sunnah nabawiyah</i> related to the implementation of punishment ( <i>ḥad</i> ) for the <i>zina</i> perpetrator, either <i>muḥşan</i> or <i>ghayr muḥşan</i>	Performing <i>tarjih</i> by comparing several <i>riwâyat</i> , practicing what the prophet had done, and doing the reasoning with logics
9	Issue on <i>ḥad</i> of <i>zina</i> for <i>dhimmî muḥşan</i> (Q.S. al-Nûr [24]: 2)	<i>Kâfir dhimmî</i> gets the same treatment as what Muslims get in terms of sanction ( <i>ḥad</i> ) for the perpetrator of <i>zina</i> (al-Şâbûnî 2004, II/23).	Adhered to <i>sunnah nabawiyah</i>	<i>Tarjih</i> is performed based on several <i>riwayat</i> s and practices of the prevailing sanction ( <i>ḥad</i> ) of <i>zina</i> for <i>kâfir dhimmî</i> in the era of the Prophet
10	Issue on the executor of <i>ḥad</i> for slave (Q.S. al-Nûr	<i>Zina ḥad</i> for slaves is carried out by a <i>sayyid</i> (an honorific title denoting	Adhered to the <i>sunnah</i> of the prophet and good deeds of the	Performing <i>tarjih</i> by implementing the <i>sunnah</i> of



	[24]: 2)	descendants of prophet Muhammad) without any needs to ask for a permission to the <i>Imam</i> (a Muslim religious leader), the authorized government officials (al-Şâbûnî 2004, II/24-25).	companions of the prophet.	the prophet, which is supported by the actions the companions of the prophet took after the era of the prophet ended.
11	Issue on the accusation of <i>zina</i> towards a group (Q.S. al-Nûr [24]: 4)	Someone who accuses a certain group of doing <i>zina</i> , that person would get one <i>ḥad</i> , and it was not doubled (al-Şâbûnî 2004, II/48-49).	Based on <i>ẓâhir al-naṣṣ</i> and <i>sunnah nabawiyah</i>	<i>Tarjih</i> is carried out by practicing the actions taken by the prophet and his companions
12	Issue on the right of ownership of <i>ḥad qadhaf</i> (Q.S. al-Nûr [24]: 4)	<i>Ḥad qadhaf</i> is the right that belongs to both Allah the Almighty and human beings. It can be canceled if the victims give their forgiveness (al-Şâbûnî 2004, II/51)	Adhered to logics, as associated with two rights in the execution of one <i>ḥad</i> .	Performing <i>tarjih</i> by using reasoning, without searching for the existence of certain <i>riwâyat</i>
13	Issue on the parties rejecting <i>li'an</i> pledge (Q.S. al-Nûr [24]: 6)	A wife/husband who rejects the <i>li'an</i> pledge, can be directly given a <i>ḥad</i> (al-Şâbûnî 2004, II/66)	Adhered to the sunnah of the prophet and the actions the companions of the prophet took.	<i>Tarjih</i> is performed by implementing the things stated in the <i>riwâyat</i> regarding the enactment of <i>li'an</i> pledge
14	Issue on the husband's confession of giving lies	After going through the <i>li'an</i> pledge, the husband admits that he was lying about	Adhered to the sunnah of the prophet and the actions the	<i>Tarjih</i> is performed by implementing the things



	after saying the <i>li'an</i> pledge (Q.S. al-Nûr [24]: 6)	the accusation, then he still cannot return to his wife (al-Şâbûnî 2004, II/68).	companions of the prophet took.	stated in the <i>riwâyat</i> regarding the enactment of <i>li'an</i> pledge
15	Issue on violating the pledge because of something better (Q.S. al-Nûr [24]: 22)	The violation of pledge because of shifting to something better can still result in the obligation given to the perpetrator to pay <i>kafârat</i> (al-Şâbûnî 2004, II/80-81)	Adhered to the opinions of <i>Jumhûr 'ulamâ'</i> .	<i>Tarjih</i> is performed by comparing the strength of the propositions proposed by each group
16	Issue on <i>qisâs</i> of the one gouging the eyes of the peepers out (Q.S. al-Nûr [24]: 27)	The ones gouging the eyes of the peepers out, <i>qisâs</i> cannot be imposed on them (al-Şâbûnî 2004, II/102)	Adhered to the decisions made by the prophet PBUH	<i>Tarjih</i> is performed by implementing the opinions that carry out the decisions made by the prophet PBUH concerning the void <i>qisâs</i> regarding the problem

From Table 1 to Table 6, the *tarjih* principles performed by al-Şâbûnî in *Rawâi' al-Bayân* book are varied. The authors try to simplify the discussion, classify, and calculate them as seen in Table 7.

Table 7  
The Summary of the Principles of al-Şâbûnî's *Tarjih* in *Rawâi' al-Bayân*

No	<i>Tarjih</i> Principles	Amount
1	<i>Zâhir al-naşş</i>	15
2	Sunnah nabawiyah	11
3	Social Benefits	6
4	The provisions made by the Prophet	6
5	The validity of the fact	4
6	The actions of the Prophet's companions	4
7	Logical reasoning	3



8	Refusal of hardship/difficulty	3
9	<i>Ijmā'</i> of the Prophet's companions	3
10	The meticulousness in legal actions	3
11	The obligation to follow the path of the Prophet in <i>manasik</i> ( <i>hajj</i> and <i>umrah</i> )	2
12	The wisdom in Islamic law enactment	2
13	<i>Ijtihād</i> of the Prophet's companions	2
14	The opinion of the majority of ' <i>ulamā'</i> ( <i>Jumhūr</i> )	2
15	Getting out of the debate	1
16	The equality of the Quran and Sunnah as the proposition of law	1
17	The equality of Muslim before the law	1
18	The dignity of Muslim above <i>Kāfir</i>	1
19	The <i>shāri'</i> provision in the using terms	1
20	The use of <i>shāri'</i> in a language	1
21	The generalization of the lafaz scope	1
22	Habit/Custom	1
<b>Total</b>		<b>74</b>

The order used in table 7 is based on several uses of the principles of *tarjih* by al-Ṣābūnī in *Rawāi' al-Bayān*. The principles of *tarjih* are then applied to the practical steps (method) of the used *tarjih*. In other words, the *tarjih* method is an application of the principles that are used as the basis for doing *tarjih*. However, al-Ṣābūnī sometimes uses several principles in carrying out a *tarjih* on a problem. Thus, it can be understood that he uses 74 principles of *tarjih* on 59 issues in the book since there are several principles of *tarjih* which are used repeatedly.

The methods and practical steps used by al-Ṣābūnī in performing *tarjih* on two volumes of the *Rawāi' al-Bayān* book, based on the results of the aforementioned analysis, can be simplified as follows: (a) favoring the opinion supported by the *ijmā'* of the '*ulamā'* with several levels (al-Ṣābūnī 2004, I/237); (b) choosing an opinion supported by the practice of the sunnah at the era of Prophet Muhammad PBUH (al-Ṣābūnī 2004, I/370; Nasrulloh, 2014); (c) favoring the opinion supported by many *riwāyats*/narrations even though it is not in accordance with *ẓāhir al-naṣṣ* (al-Ṣābūnī 2004, II/212); (d) choosing an opinion that is supported by the practice of the companions of the prophet after the death of Prophet Muhammad (al-Ṣābūnī 2004 II/354-5; Rosyad, 2015); (e) favoring the



opinions supported by *riwâyat* that are directly related to the explanation of the Quran and the sunnah being debated (al-Şâbûnî 2004, I/303; Siswanto 2020); (f) choosing an opinion supported by *Jumhûr* (the majority of 'ulamâ'), on a note that if the opinion does not conflict with the Quran and sunnah or *ra'yu* (al-Şâbûnî 2004, I/198); (g) favoring the opinions that can be applied in different circumstances (al-Şâbûnî 2004, II/97); (h) choosing an opinion that is strengthened by the correlation/*munâsabah* between the verse and the practice in the sunnah (al-Şâbûnî 2004, II/203-4; Hasballah et al., 2021); (i) favoring the opinion supported by the practice of *zâhir al-naşş* rather than *ta'wil* unless there is a demand against the use of such *ta'wil* (al-Şâbûnî 2004, II/226-7; Syarifah & Fahimah, 2020); (j) choosing an opinion that contains a greater element of meticulousness, especially when it comes to the provisions of the *taklifi* law, namely the legal provisions imposed on the *mukallaf* (al-Şâbûnî 2004, II/380-381); (k) choosing an opinion that corresponds to the reasoning of "*ra'yu*" rather than practicing a *riwâyat* contrary to *zâhir al-naşş* or reason (al-Şâbûnî 2004, I/37); (l) choosing to enact the provisions in *naşş* in general unless there is a provision for the specificity of its enactment (al-Şâbûnî 2004, I/175); (m) choosing the opinion supported by the use of *shâri'* over certain terms in *naşş* even if it was *majâz* (al-Şâbûnî 2004, I/233); (n) favoring the opinion that practices the real meaning over *majâz*, if there is no demand to use *majâz* (al-Şâbûnî 2004, II/226-227); (o) choosing a moderate opinion beyond the contrary if the arguments are equally strong, to prevent getting caught up in the existing debate (al-Şâbûnî 2004, II/51); (p) choosing an opinion, which involves a greater *maşlahah* element (al-Şâbûnî 2004, I/358; Syafi'i & Hamidah 2022).

Based on the explanation above, it can be seen that in the *Rawâi' al-Bayân* book, there are 22 principles and 16 methods used by al-Şâbûnî to perform *tarjih* on the differences of opinion of the 'ulamâ' regarding the legal content in the verses of *aḥkâm*. The principles of *tarjih* are based on a strong foundation, both from the *naşş* of the Quran and hadith, as well as the rules of *tarjih*, the theories of *uṣûl al-fiqh* and '*ulûm al-Qur'ân* proposed by the previous 'ulamâ'. The 16 *tarjih* methods used are sometimes direct applications of certain *tarjih* principles, or a combination of several existing *tarjih* principles. What has been done by al-Şâbûnî is a part of a very valuable *ijtihâd* and takes a role in the study of *fiqh* (Islamic law), which is not easy to undo. On the other hand, through many *tarjih* practices of his,

al-Şâbûnî seems to want to open a wider *talfiq madhhab* space so that Muslims are not confined to one particular doctrine of a school of thought. Likewise, there is a distinction that distinguishes him from most of the previous 'ulamâ', including the fact that al-Şâbûnî is able to perform innovative and objective *tarjih*, which is far from being fanatic about certain school of thought (Rusdi 2018; Fuady & Daud 2021; Kamaluddin et al. 2021).

### Conclusion

Based on the aforementioned discussion, it can be concluded that Muḥammad 'Alî al-Şâbûnî has significant contribution in developing the *tarjih* method of Islamic law, through the interpretation of the verses of *aḥkâm* in the *Rawâi' al-Bayân* book. The implementation of the *tarjih* principles in the book can be classified into six categories of discussions, which are the field of *fiqh* of worship, *fiqh al-mu'âmalah*, *fiqh al-munâkahât*, *fiqh al-mawâriṭh*, *fiqh al-siyâsah* and the relations between countries as well as *fiqh al-jinâyah*. The practice of *tarjih* is based on 22 principles of and 16 methods of implementation, which are based on strong sources and foundations including the *naşş* Quran and hadith, theories in the field of 'ulûm *al-Qur'ân* and *uşûl al-fiqh*, and the opinions of the previous 'ulamâ'. Thus, the result of *tarjih* can be used as *hujjah* in legal actions, except for some results of *tarjih*, which contain weaknesses. In this case, the weaknesses are caused by inaccuracies in using the principles and method of *tarjih*, mistakes happened during the process of performing *tarjih*, or violation in the use of the principles and method of *tarjih* that have been agreed by the 'ulamâ'. However, it can be judged as a distinction and advantage that al-Şâbûnî has in performing *tarjih*, as viewed from another point of view. Hence, what he has accomplished is a valuable *ijtihâd* and has its own characteristics and prominence. These includes his ability in making innovations within the practice of *tarjih* by using *ra'yu* as the principle of *tarjih*, for example. Also, his objectivity during the *tarjih* process may indicate that he does not possess any fanaticism towards a certain *madhhab*.

## References

- 'Abduh, M., & Riḍâ, M. R. 1947. *Tafsîr al-Qur'ân al-Ḥakîm: Al-Mashhûr bi Tafsîr-Manâr*. Cairo: Dâr al-Manâr. Retrieved from [http://ia802605.us.archive.org/11/items/tfseer\\_manar/tmnar01.pdf](http://ia802605.us.archive.org/11/items/tfseer_manar/tmnar01.pdf)
- Ahmad, N. 2018. Isu-Isu Fikih dalam Tafsir al-Qur'an al-Karim Karangan Ust. H.A. Halim Hasan, H. Zainal Arifin Abbas, dan Abdul Rahim Haitami. *Jurnal Islam Dan Masyarakat Kontemporari*, 17(2): 1-16.
- Âmidî al, 'Alî ibn Muḥammad. 2003. *Al-Iḥkâm fi Uṣûl al-Aḥkâm*. Riyad: Dâr al-Ṭaibah li al-Nashr wa al-Tawzî'.
- Aljazeera.net. 2021. *Wafât al-Allâmah al-Saud Muḥammad Ali al-Ṣâbûnî*. Retrieved from <https://www.aa.com.tr/ar/2181443>. [www.alquds.co.uk](http://www.alquds.co.uk)
- Arifin, M. P. 2014. *Rawâi' al-Bayân Âyât al-Aḥkâm min al-Qur'ân Karya Muhammad Ali al-Shabuni (Suatu Kajian Metodologi)*. Thesis, Universitas Islam Negeri Alauddin, Makasar.
- Dahliah. 2013. *Metode Penyelesaian Ta'arud al-Adillah dan Implikasinya terhadap Penetapan Hukum Islam*. Thesis, Universitas Islam Negeri Alauddin Makasar.
- Drago, A. 2016. New Interpretative Categories for Natural and Social Sciences. *Advances in Historical Studies*, 5(5): 223-239.  
DOI: <https://doi.org/10.4236/ahs.2016.55018>.
- Faisal, M. Z. 2019. Sikap dan Etika dalam Menghadapi Ikhtilaf Pendapat Mazhab Fiqih. *Al-Qadha*, 6(2): 12-20.  
DOI: <https://doi.org/10.32505/v6i2>.
- Fuady, Z., & Daud, M. 2021. Fiqh Across Madhhabs: An Alternative to Pesantren Students' School of Thought Exclusivism in the Post- Truth Era The schools of thought (madhhabs) within fiqh (Islamic jurisprudence) are one of the ijihad products explored by qualified Muslim Juris. *Mazahib: Jurnal Pemikiran Hukum Islam*, 20(1): 143-168.  
DOI: <http://doi.org/10.21093/mj.v20i1.3081>.
- Haryono, A. 2017. Analisis Metode Tafsir Muhammad ash-Shabuni dalam Kitab Rawâi' al-Bayân. *Wardah*, 18(1): 48.  
DOI: <https://doi.org/10.19109/wardah.v18i1.1432>.

- al-Harbî, H. 1996. *Qawâ'id al-Tarjih 'Ind al-Mufassirîn; Dirâsah Nazariyah Taṭbiqiyah*. Riyad: Dâr al-Qâsim.
- Hasballah, K. et al. 2021. Identifying 'Illat through Munasabah in Islamic Law: A Perspective of Imam Al-Ghazali. *Samarah*, 5(2): 598-618.  
DOI: <https://doi.org/10.22373/sjhk.v5i2.10914>.
- Hidayatullah, S. 2018. Ta'arud al-Adillah. *Al-Mizan*, II(2): 113-132.
- Iyâzî, M. 'Al. 1993. *al-Mufassirîn; Ḥayâtuhum wa Manâhijuhum* (1st ed.). Teheran: Wizârah al-Tsaqâfah wa Inshâq al-Islâm.
- Jalil, A. 2017. Studi Analisis Komparatif Metode Mutakallimîn dan Ahnâf dalam Menyelesaikan Pertentangan Dalil Hukum. *Islamuna*, 4(1): 1-30.  
DOI: <https://doi.org/10.19105/islamuna.v4i1.1349>.
- al-Jaṣṣaṣ A. B. 1992. *Aḥkam al-Qur'ân*. Beirut: Ihya al-Turâth al-'Arabî.
- Jazil, S. 2020. Al-Qaṭ' wa al-Zann 'Inda Ibrâhîm Ḥusayn Namûdhaj Tajdîd al-Sharî'ah al-Islâmîyah fi Indûnisîyâ. *JiIS*, 2(14): 541-572.  
DOI: <https://doi.org/10.15642/JiIS.2020.14.2.541-572>.
- Junaidi. (n.d.). Epistemologi Penafsiran Ayat-Ayat Ahkam (*Analisis Komparatif Antara Muhammad Shahrur dan Muhammad 'Ali al-Sabuni. Prosiding Halaqah Nasional dan Seminar Internasional Pendidikan Islam*, 247-260.
- Kamaluddin, S. H. et al. 2021. The Characteristic of Popular Schools Madhab Change and Renewal in the Islamic World. *Al'Adalah; Jurnal Syari'ah Dan Hukum Islam*, 6(2): 316-335.  
DOI: <https://doi.org/10.31538/adlh.v6i2.1313>.
- Kasdi, A. 2019. Reconstruction of Fiqh Nusantara: Developing the Ijtihad Methodology in Formulating Fiqh from Indonesian Perspective. *Qudus International Journal of Islamic Studies*, 7(2): 239-266.  
DOI: <https://doi.org/10.21043/qijis.v7i2.4797>.
- Khatibah. 2011. Penelitian Kepustakaan. *Iqra'*, 5(1): 36-39.

- Kholid, A. et al. 2021. Rereading The Indonesian Interpretation of The Qur'an on Awliya': The Cases of Hamka and M. Quraish Shihab. *Qudus International Journal of Islamic Studies*, 9(1): 37-72.  
DOI: <https://doi.org/10.21043/QIJIS.V9I1.7567>.
- Mu'alim, M. 2019. Book Review: Rawai' al-Bayan fi Tafsir Ayat al-Ahkam min al-Qur'an (Haste of Tarjih Muhammad 'Ali al-Sabuni). *Aloha International Journal of Multidisciplinary Advancement*, 1(5): 114-117.  
DOI: <https://doi.org/10.33846/aijmu30504>.
- Mufid, A. S. 1996. *Pendekatan Kualittatif untuk Penelitian Agama*. Cirebon: Fak. Tarbiyah IAIN Sunan Gunung Djati.
- Nasrulloh, N. 2014. Rekonstruksi Definisi Sunnah Sebagai Pijakan Kontekstualitas Pemahaman Hadits. *Ulul Albab: Jurnal Studi Islam*, 14(3): 15-28.  
DOI: <https://doi.org/10.18860/ua.v14i3.2659>.
- Rosyad, A. 2015. Qawaid Tafsir: Telaah Atas Penafsiran al-Qur'an Menggunakan Qaul Sahabat. *Ulul Albab: Jurnal Studi Islam*, 16(2): 249-264.  
DOI: <https://doi.org/10.18860/ua.v16i2.3178>.
- Rosyadi, I. 2017. Tarjih Sebagai Metode: Perspektif ushul Fiqh. *Isyroqi*, 1(1): 11-17.
- Rusdi, M. 2018. Analisis Kaidah Al-Ijtihad La Yunqadh Bi al-Ijtihad dan Aplikasinya dalam Hukum Islam. *Al-Qadha*, 5(2): 48-61.  
DOI: <https://doi.org/10.32505/qadha.v6i2.1333>
- al-Şâbûnî, M. 'Alî. 2004. *Rawâi' al-Bayân fi Tafsîr Âyât al-Aḥkâm min al-Qur'ân*. Beirut: Dâr Ibn 'Aşşâşah.
- al-Shâfi'i, M. b I. n.d.. *Aḥkam al-Qur'ân*. Cairo: Maktabah al-Khanzi.
- al-Shawkânî, M. ibn 'Alî. 2000. *Irshâd al-Fuḥûl ilâ Taḥqîq al-Ḥaq min 'Ilm al-Uşûl*. Riyad: Dâr al-Faḍîlah li al-Nashr wa al-Tawzî'.
- Siswanto, D. 2020. the Paradigm of Matn Hadith Criticism and Its Transformation in the Modern Era. *Ulul Albab: Jurnal Studi Islam*, 21(1): 130-157.  
DOI: <https://doi.org/10.18860/ua.v21i1.8936>.

- Sopyan, Y. 2010. *Tarikh Tashri': Sejarah Pembentukan Hukum Islam*. Depok: Gramata Publishing.
- Syafi'i, I., & Hamidah, T. 2022. Maslahah Controvers as Sources, Methods and Objectives (Comparative Analysis Study of The Four Mazhab). *Al'Adalah: Jurnal Syari'ah Dan Hukum Islam*, 7(1): 19-38.  
DOI: <https://doi.org/10.31538/adlh.v7i1.1642>
- Syarifah, Umayyatus & Siti Fahimah. 2020. Methods and Principles of Scientific Exegesis: A Review of Tafsir al-Âyât al-Kawniyyah fî al-Qur'ân al-Karîm. *Ulul Albab: Jurnal Studi Islam*, 21(2): 289-311.  
DOI: <https://doi.org/10.18860/ua.v2li2.10227a>.
- Washil, I. 2016. Problem Subjektifitas dalam Tafsir bi al-Ma'thur, Tafsir bi al-Ra'yi, dan Tafsir bi al-Isyarah. *Diya Al-Afkar*, 4(1): 1-18.
- Yaqin, A. 2015. Urgensi Tarjih dalam Istinbath Hukum Islam. *Al-Ihkam*, X(1).
- Zakiyah, E. 2021. Character of Islamic Law and Its Study of The Interpretation of The Qur'an. *Al'Adalah: Jurnal Syariah dan Hukum Islam*, 6(1): 76-88.  
DOI: <https://doi.org/10.31538./adlh.v6i1.1379>.
- Zuhayli al-, W. 2019. *Uşûl al-Fiqh al-Islâmî*. Damascus: Dâr al-Fikr.
- Zuhayli al-, W. 2009. *al-Tafsîr al-Munîr fî 'Aqîdah wa al-Sharî'ah wa al-Manhaj*. Damascus: Dâr al-Fikr.



# Dr Didin 2

---

## ORIGINALITY REPORT

---

6%

SIMILARITY INDEX

6%

INTERNET SOURCES

3%

PUBLICATIONS

3%

STUDENT PAPERS

---

## MATCH ALL SOURCES (ONLY SELECTED SOURCE PRINTED)

---

6%

★ [www.researchgate.net](http://www.researchgate.net)

Internet Source

---

Exclude quotes  On

Exclude bibliography  On

Exclude matches  < 1%