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And what do they tell us?

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One or Two Versions of al-Siyāsa al-sharʿiyya of Ibn Taymiyya?
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Her recent publications include:
- "al-Dhahabi", in: *Encylopaedia of Islam THREE*, (Leiden: E.J. Brill, 2016), Pt. 1, pp. 73-80,
- "Religious Knowledge between Scholarly Conservatism and Commoners' Agency", in: Armando Salvatore, Babak Rahimi, Roberto Tottoli (ed.s), *The Wiley-Blackwell History of Islam and Islamic Civilization* (Oxford: Blackwell Publishing Ltd), 2016 [in print].
- "Il pensiero politico sunnita nel medioevo islamico. La questione del califfato: al-Mawardi (m. 1058) e Ibn Taymiyya (m. 1328)", in: *Storia del pensiero politico islamico,* Massimo Campanini (ed.), Milano: Mondadori, 2016, pp. 47-67.
- "Un caos senza speranza? Studiare il Corano oggi", in: Alfred -Louis de Prémare, *Alle origini del Corano,* edizione italiana a cura di Caterina Bori (Roma: Carocci, 2014), pp. 11-59.

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Abstract

Ibn Taymiyya's *al-Siyāsa al-sharʿiyya fī iṣlāḥ al-raʿī wa-l-raʿiyya* is a very famous book. *Al-Siyāsa al-sharʿiyya* is also a complex work that displays a variety of meanings cohabiting together rather harmoniously. The generic and synthetic nature of this treatise, together with Ibn Taymiyya's controversial legacy, has opened the way to many different claims of what the treatise is about. To some extent, the purpose of the present paper is simple. I intend to present and discuss the contents of Ibn Taymiyya's *al-Siyāsa al-sharʿiyya* through a close reading of the text that will take into account two different editions of it so far unnoticed by Western scholars. By so doing, I hope that some of the prevailing ideas about what *al-Siyāsa al-sharʿiyya fī iṣlāḥ al-raʿī wa-l-raʿiyya* is can be complemented by new perspectives. In particular, I shall argue that the common view that the book is about the coercive power of the state as in punishment, jihad and public order is to be partially revisited and that pursuing a study of the text's manuscript tradition is an urgent scholarly task. By focusing on the existence of different versions of Ibn Taymiyya's treatise on *siyāsa*, the present paper also open questions about their possible meanings.

1.   Introduction[1]

The present paper is part of a bigger project. To some extent, the purpose of the paper is simple. I intend to present and discuss the contents of Ibn Taymiyya's famous treatise *al-Siyāsa al-sharʿiyya fī iṣlāḥ al-rāʿī wa-l-raʿiyya* through a close reading of the text that takes into account a version of it recently discovered and edited. By so doing, I hope that some of the prevailing ideas about what *al-Siyāsa al-sharʿiyya fī iṣlāḥ al-rāʿī wa-l-raʿiyya* is about can be complemented by new perspectives. The new edition of the text was published in 2008, that is eight years ago. It presents whole passages missing from the shorter and most widespread version of it. That for a while now there have been in circulation two different versions of the text is a fact that has gone unnoticed by those scholars who have recently published in the West either specifically on the treatise or on Ibn Taymiyya's political project as a whole.

2.   The text as we have it

Thanks to the translation into French by Henri Laoust, which was published in 1948, *al-Siyāsa al-sharʿiyya fī iṣlāḥ al-rāʿī wa-l-raʿiyya*[2] enjoyed a wide circulation in Western scholarly circles.[3] Brief summaries of it can be found in any standard textbook on medieval Islamic political thought, often relying on both Laoust's classic study on Ibn Taymiyya's social and political doctrines and on his translation of and introduction to *al-Siyāsa al-sharʿiyya*.[4] Henri Laoust's translation contributed to the diffusion, in the West, of a work whose title has produced the nowadays popular "tag" of *siyāsa sharʿiyya*, commonly, and narrowly, understood as "politics according to the divine law".

Working in the first half of the 20th century, Henri Laoust based his translation on two early printed editions of the text, 1888 Bombay and 1905 Cairo, and collated it to two manuscripts, Damascus Ẓāhiriyya, *Adab al-manthūr* 76 (dated 734 AH) and Paris Bibliothèque Nationale 2443 (date not mentioned). He promised to publish his own edition of the text, but unfortunately he never did.[5] Since then various printings of the treatise have been put into circulation; they are pretty much the same and generally without references to the manuscripts they are based on.[6] One notable exception is the recent edition by ʿAlī ibn Muḥammad al-ʿImrān published in Mecca by Dār ʿālam al-fawāʾid in 2008.[7] This edition displays a detailed introduction which includes a list of extant printed versions of the text, an attempt at dating the text, a full description of the manuscripts used with samples of incipits and colophons.[8] Most importantly, this edition is based on a manuscript

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[2] Depending on how one reads the particle *fī* the title can be respectively translated as *Governance according to the religious normativity regarding the righteousness of the shepherd and his flock*, or: *Governance according to the religious normativity for the righteousness of the shepherd and his flock*. This second translation is the one most commonly adopted by Western scholars. Ibn Rushayyiq al-Maghribī (d. 749/1348), the Mālikī follower of Ibn Taymiyya who authored a list of his works reports the title of the work with a *li-* in place of *fī*: *al-Siyāsa al-sharʿiyya li-iṣlāḥ al-rāʿī wa-l-raʿiyya*. Cf. Ibn Rushayyiq, *Asmāʾ muʾallafāt shaykh al-islām Ibn Taymiyya*, in: *al-Jāmiʿ li-sīrat shaykh al-islām Ibn Taymiyya khilāl sabʿat qurūn*, eds. Muḥammad ʿUzayr Shams and ʿAlī al-ʿImrān, Mecca: Dār ʿālam al-fawāʾid, 1422 AH, 2nd print, 306.

[3] Laoust, *Traité*.

[4] A good example is Black, *History*, 158–163 on Ibn Taymiyya which mainly relies on Laoust, *Essai*. Johansen's influential article on Ibn Taymiyya's *Siyāsa al-sharʿiyya* relies on Laoust's translation of the treatise: Johansen, Perfect Law, 259–294.

[5] Laoust, *Traité*, xlvii.

[6] Among the available prints, I was able to check: Ibn Taymiyya, *al-Siyāsa al-sharʿiyya*, ed. Lajnat iḥyāʾ al-turāth al-ʿarabī; *al-Siyāsa al-sharʿiyya*, in: *Majmūʿ fatāwā*, 28: 244–397; *al-Siyāsa al-sharʿiyya*, ed. ʿIṣām Fāris al-Ḥarastānī. For a list of extant printed editions, see al-ʿImrān, *Muqaddimat al-taḥqīq*, 34–35.

[7] *Al-Siyāsa al-sharʿiyya*, ed. al-ʿImrān.

[8] Al-ʿImrān, *Muqaddimat al-taḥqīq*, 5–67.

preserved at the Sülaymaniyya Library in Istanbul, MS 1553 Shahīd ʿAlī Pāshā, where *al-Siyāsa al-sharʿiyya* is bound in a codex gathering a *Qāʿida fī al-ḥisba* (*Precept on the institution of Ḥisba*), copied on 16 Rabīʿ I 780 (July 12th 1378) and a *Qāʿida fī laʿb al-shaṭranj* (*Precept on the game of chess*) copied on 19 Rabīʿ I 780 (July 15th 1378). The text of *al-Siyāsa* was copied on Friday 8 Rabīʿ I 780 (July 4th 1378). These three works were written by the same unknown hand closely in time, one after the other.

Sülaymaniyya MS 1553 Shahīd ʿAlī Pāshā is particularly interesting for two reasons. First, its colophon states that it was copied from an autograph (*naqaltu min nuskha julluhā bi-khaṭṭ al-muṣannif*).[9] Besides, the Sülaymaniyya MS 1553 Shahīd ʿAlī Pāshā has portions of the text that are missing from its many printed versions in circulation. Muḥammad al-ʿImrān claims that at some point this version of the text must have been abridged by some unknown hand, and not by Ibn Taymiyya.[10] The claim that the shorter version of the text is an abridged version of the longer one is supported by the fact this manuscript (i.e Sülaymaniyya MS 1553 Shahīd ʿAlī Pāshā) introduces the contents as:

"This is a treatise that comprises the concise and substantial principles of divinely-oriented governance" (*hādhihi risāla tataḍammanu jawāmiʿ min al-siyāsa al-ilāhiyya …*),[11]

while others, even earlier manuscripts, present the text as an abridgement:

"This is an abridged treatise which comprises the concise and substantial principles of divinely-oriented governance" (*hādhihi risāla mukhtaṣara fīhā jawāmiʿ min al-siyāsa al-ilāhiyya*).

The latter wording is also the one we find in the various printings of *al-Siyāsa al-sharʿiyya* nowadays in circulation.[12] Yet, other than this, we have no concrete evidence that supports the argument that the abridgment was not carried out by Ibn Taymiyya. It may have been Ibn Taymiyya himself working and reworking at the text, editing it, although this was not in his style.[13] At its current state, the evidence shows that there were at least two different texts of the same work, one longer and one shorter. From what I have seen, in terms of manuscript activity, the short version predates the long one. For instance, Sülaymaniyya MS 2889 Ayasofia (titled *Kitāb al-siyāsa al-sharʿiyya*) was copied in Rajab 744AH, and as far as I could check, apart from some minor variants, its text of *al-Siyāsa* is the same as that of the short, most widespread one.[14] Of course this does not mean that in terms of composition the longer text necessarily postdated the shorter (in this case the latter could not be its abridgment), but only that as things stand the manuscript tradition of the text offers us a copy of the longer version which is later than the other one. For some reason, the shorter version enjoyed a wider circulation. Further research on the manuscript tradition of Ibn Taymiyya's *al-Siyāsa al-sharʿiyya* may shed more light on this specific problem.

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[9] Sülaymaniyya MS 1553 Shahīd ʿAlī Pāshā, fol. 76r. I would like to thank Ahmet Kayli for sending me the manuscript materials which I use and quote in this paper. As for Sülaymaniyya MS 1553 Shahīd ʿAlī Pāshā, these correspond to the first seven folios and the last three ones (ff. 1v-8r and 74r-76r) of al-*Siyāsa*, to the first three folios and the last two ones of the *Ḥisba* (ff. 77r-79r and 88v-89v), and to the first two and last two folios of the *Qāʿida fī laʿb al-shitranj* (90r-92r and 114v-116r). The last text also displays a numeration by page.

[10] Al-ʿImrān, *Muqaddimat al-taḥqīq*, 32–33.

[11] Sülaymaniyya MS 1553 Shahīd ʿAlī Pāshā, fol. 1v.

[12] Sülaymaniyya MS 2889 Ayasofia, fol. 1v. The text was copied in Rajab 744AH/November 1343 (fol. 47v). The name of the copyst is unknown. A later copy: Sülaymaniyya MS 2886 Ayasofia displays the same incipit, fol. 2r. The text was copied in 893AH/August 1488 (fol. 47v). Cf. *Siyāsa*, ed. Ḥarastānī, 9. Al-ʿImrān mentions neither Sülaymaniyya MS 2889 nor Ayasofia MS 2886.

[13] On Ibn Taymiyya's writing style, see Caterina Bori, Collection and Edition, especially p. 5. and Vasalou, *Ibn Taymiyya's Ethics*, 16-17.

[14] I was able to see only the beginning and end of a digital copy of Sülaymaniyya MS 2889 Ayasofia, ff. 1r-5r and 43v-48v.

In what follows, I have used the 1993 edition by Fāris al-Ḥarastānī and compared it to the one by Muḥammad al-ʿImrān (2008). When of help to the understanding of the treatise, I present and discuss the portions of the text missing from its most widespread version which especially occur in the second part of the book. Generally speaking, *al-Siyāsa al-sharʿiyya* is a complex work displaying a variety of meanings that cohabit together rather harmoniously. The generic and synthetic nature of the text, together with the controversial legacy of Ibn Taymiyya, has opened the way to many different claims of what the treatise is about. Yet, the literature on *siyāsa sharʿiyya* both in Arabic and Western languages is immense, I will therefore discuss it somewhere else.[15] The present paper aims at surveying and reviewing the contents of the book by taking into account the new edition, and at highlighting the significance of the new version of the text for a fuller understanding of what this famous treatise is about. Where I can, and mainly in footnotes, I draw attention to other writings of Ibn Taymiyya which touch on the various topics discussed in *al-Siyāsa al-sharʿiyya* albeit always in a highly synthetic way. When relevant, I also rapidly point to parallels and differences to two other major works of governance literature: al-Māwardī's (d. 1058) *al-Aḥkām al-sulṭāniyya* and Ibn Jamāʿa's (d. 1333) *Taḥrīr al-aḥkām fī tadbīr ahl al-islām*. Al-Māwardī's *Aḥkām* represents the "canon" of the genre, while Badr al-Dīn Ibn Jamāʿa was an influential Shāfiʿī Chief Qadi and a contemporary to Ibn Taymiyya.[16] The underlying point is that *al-Siyāsa al-sharʿiyya* was not born out of nothing, although more is to be done in this direction.

The contents' review here proposed hopes to straighten the common view, or at least to complement it, that the book is mainly about the coercive power of the state as in punishment, jihad and public order. This is not to say that these themes are not there, but that there is more to it.

3. Nature and structure of the text.

The first folio of the Sülaymaniyya MS 1553 Shahīd ʿAlī Pāshā is densely scribbled. What the folio shows are statements bearing the birth dates, and in one case the death date, of the children of the various owners of the codex (all notes date to the beginning of the 11th Hijrī century, that is the end of 16th, beginning of 17th Gregorian century). There are also two seals. One appears as the bequest (*waqf*) seal of the vizier Shahīd ʿAlī Pāshā, while the other is not clearly readable on the (partial) digital copy at my disposal.[17] Amongst all, centrally located and in bigger script, stands the title: *Jawāmiʿ min al-siyāsa al-sharʿiyya fī salāḥ* (and not *islāḥ*) *al-rāʿī wa-l-raʿiyya*.[18] The title clearly resumes two lines of the first folio of the text (folio 1v., lines 6-7 from below) and it is penned by the same hand who copied the three writings assembled in the codex.

It is intriguing to note that, in this very same first folio, the titles of the other two short works were added below the main one (i.e. *Jawāmiʿ min ...*) by another hand in what looks like a hurried writing. This suggests that, in terms of subject-matter, the person who originally assembled the three texts together perceived them as all belonging to "the *siyāsa sharʿiyya* family". That is, initially all three works might have been subsumed under the same title of *Jawāmiʿ min al-siyāsa al-sharʿiyya fī salāḥ al-rāʿī wa-l-raʿiyya*, a title pointing to the major of the three writings, but conceptually including the others as well.[19]

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[15] This paper is complementary to another piece of research in which I expand on: the dating and recipient of the text, its genesis and literary genre, previous literature about the text, the concepts of *siyāsa* and of *sharīʿa* in Ibn Taymiyya's writings.

[16] Ibn Taymiyya's and Ibn Jamāʿa's "political" thought have been compared in previous scholarship, but mainly from the point of view of the caliphate. Cf. Rosenthal, *Political Thought*, chap. 2 and Lambton, *State and Government*, 138-151.

[17] The date of the bequest seal of Shahīd ʿAlī Pāsha is not readable from my digital copy. Thanks to Noah Gardiner and Nasser Rabbat for giving me some of their time with this material.

[18] In spite of this, Muḥammad al-ʿImrān, who – as pointed out - bases his edition on Sülaymaniyya MS 1553 Shahīd ʿAlī Pāshā, chooses the most widespread title: *al-Siyāsa al-sharʿiyya fī islāḥ al-rāʿī wa-l-raʿiyya*.

[19] This is certainly true for the *Qāʿida fī al-ḥisba*, as it will be shown in the course of this paper. More is to be done in regard to the text on chess.

Keeping close to Ibn Taymiyya's own wording enables us to locate important clues about the nature of the text. The fact that it is intended to illustrate the *jawāmiʿ*, namely "the concise and substantial principles" (of divinely-oriented governance), is a crucial indication of the synthetic nature of this writing. Throughout the text Ibn Taymiyya repeats this point: he wants to stay general and keep it short: "The purpose [here] is to mention concisely the substantial rulings" (*wa-innamā al-gharaḍ dhikr al-jumal al-jāmiʿa*), he states when discussing various types of public income.[20] His aim, then, is to provide substantial but short guidelines for "just *siyāsa*" (*al-siyāsa al-ʿādila*), not details.[21]

"Oh you who believe! Obey Allah, the Messenger and those charged with authority among you. If you differ in anything among yourselves, refer it to Allah and His Messenger" (Q. 4:59).[22] While in the classics of Islamic political literature this verse, which exhorts the believers to obey God, his Messenger and men in authority, was commonly used as the scriptural lynchpin to support the obligatory nature of obedience to the authorities in charge, the contents of *al-Siyāsa al-sharʿiyya* are rather organized around the previous verse of *Sūrat al-nisāʾ*, that is Q. 4:58.[23]

The first part of this verse exhorts to render trusts to their owners (*inna allāha yaʾmurukum an tuʾaddū al-amānāt ilā ahlihā*), while the second commands to rule or judge with fairness (*wa-idhā ḥakamtum bayna al-nās an taḥkumū bi-l-ʿadl*). According to Ibn Taymiyya, the recipients of such recommendation are "men in authority".[24] Ibn Taymiyya plainly states that Qurʾān 4: 58 refers to rulers, while the following verse, Qurʾān 4:59, concerns the subjects and demands obedience from them. In other words, as long as the shepherd accomplishes his duties, obedience is due to him from the part of his flock. First and foremost, these duties consist of rendering deposits backs and ruling/judging with fairness: "If public authority (*wilāya*) is obliged to render deposits back to their owners and to rule with fairness, then these two obligations are the essence of just *siyāsa* and sound authority" (*jimāʿ al-siyāsa al-ʿādila wa-l-wilāya al-ṣāliḥa*), writes Ibn Taymiyya with impressive lucidity.[25] Thus, the book illustrates these two obligations.

Consistently, the content organization of the treatise follows this iron logic. Its first section (*al-qism al-awwal*) develops around the qurʾānic injunction to give deposits back to their owners by focusing respectively on the qualities of public offices (four chapters, or *fuṣūl*) and on "public wealth" (five chapters). In the course of this paper, it will become clear, I hope, that both public offices and public wealth are conceived as two different types of trusts (*amānāt*). The second part of the book (*al-qism al-thānī*) is built around the importance of judging or ruling with equity, or fairness (i.e. around the second part of verse 58 of sura 4). Here, the rights of God and those of men are separately dealt with, each in eight chapters, as according to a standard organization of *fiqh*

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[20] *Siyāsa,* ed. Ḥarastānī, 53.

[21] The expression *al-siyāsa al-ʿādila* occurs at the very beginning. *Siyāsa*, ed. Ḥarastānī, 12. From now on, when no major differences with the edition of al- Muḥammad al-ʿImrān occur, I will refer to the printed edition of *al-Siyāsa* edited ʿIṣām Fāris al-Ḥarastānī.

[22] The translation is that of Yusuf Ali, *The Holy Qurʾān*, Madina, 1413AH with some adjustments.

[23] See al-Māwardī, *Aḥkām*, 13. Ibn Jamāʿa, *Taḥrīr al-aḥkām*, 52.

[24] *Qāla al-ʿulamāʾ: nuzilat al-ayat al-ulā* [i.e 4:58] *fī wulāt al-umūr.* From *Siyāsa*, ed. Ḥarastānī, 11 but also *Siyāsa*, ed. al-ʿImrān, 5. If we were to look at two colossal authoritative Sunni tafsir widespread in Ibn Taymiyya's time as al-Ṭabarī'a and al-Rāzī'a, we would notice that al-Ṭabarī, in particular at the end of his commentary of Q. 4: 58, and after having also provided another interpretation, is very explicit in stating: "Oh you, men in charge with the affairs of Muslims (*wulāt umūr al-muslimīn)*, God orders you to render back what your flock entrusted you with". The emphasis is on material restituition. The recommendation al-Ṭabarī adresses to those in authority is essentially not to mismanage their subjects' money and properties. On the contrary, such a straightforward connection between the duties of those in authority and their subjects' rights is not in al-Rāzī's commentary. Cf. al-Ṭabarī (d. 922), *Jāmiʿ al-bayān ʿan taʾwīl āy al-qurʾān*, 30 vols., Cairo: al-Muṣṭafā al-Bābī al-Ḥalabī, 1954-1968, 4:144-146, the quotation is from p. 146 and Fakhr al-Dīn al-Rāzī (d. 1210), *al-Tafsīr al-kabīr,* ed. ʿAbd al-Raḥmān Muḥammad, 32 vols., Cairo: al-Ṭabʿ al-bahiyya al-miṣriyya, 1934-1967, 10: 137-140.

[25] *Siyāsa*, ed. Ḥarastānī, 12.

books. There is no doubt, hence, that *al-Siyāsa al-sharʿiyya* was thought primarily for men in authority because, put it in coarse terms, if they behave, ordinary people behave too. This seems to be the message of the opening page, and it is around this message that the book's contents are organized too. In this regard, the neat and tidy content arrangement of the text is striking given Ibn Taymiyya's propensity both for digression and outspoken polemics. This is not to say that *al-Siyāsa al-sharʿiyya* is devoid of critique, quite the contrary. It is just that the critique to the system is here molded within the framework of the rather polished language and advisory tone typical of governance and advisory literatures.

4.   Contents

In what follows, I identify four content-related clusters which aim at charting rather closely the major topics of the treatise.

I.   Ethical leadership

The book's first concern is with the ethics of governance, that is the ethical principles that should inspire the conduct and decisions of men of authority. I will call this thematic preoccupation "ethical leadership" by which I mean the inclination in governance to go beyond personal interests in order to embrace and promote the public good.[26] There is not much jurisprudence in this first part of the text.[27]

The vocabulary to describe public offices is generic: *wālī al-amr*, *wulāt*, *wilāyāt*, *rāʿī*, *dhū al-sulṭān*, *sulṭān,* rarely *nuwwāb*, once *khalīfa*.[28] Eventually lists of different offices occur, as a way to include them all.[29] No office is dealt with specifically. What matters are those necessary qualities that will allow the aims of each single office to be achieved. These are: *in primis* fairness (*ʿadl)*, then trustworthiness (*amāna*) and strength (*quwwa*), all subsumed under the capability of always giving priority to the common interest, or public good (*maslaḥa*). It is precisely the primacy of the common welfare that emerges conspicuously in this first section of *al-Siyāsa al-sharʿiyya* and then, again and again all along the text. In Ibn Taymiyya's view, it is clear that this principle should orient human "political" actions as well individual and communal agency. [30]

Public authority (*wilāya*) is understood as an act of trust, or a deposit (*amāna*), which is not to be betrayed. Namely, the trust that was deposited in somebody's appointment for a specific office is to be rendered back by pursuing the aim of that specific office and by being aware of the means to achieve such aim (*wa-idhā ʿurifat al-maqāṣid wa-l-wasāʾil tammat al-amr*).[31] Beyond the single specific objectives of each public function, the exercise of the different types of public authority, such as military command, judgeship or leadership in prayer, for instance, fall within a broad vision which envisages the improvement and the protection of the material and spiritual conditions of people as the necessary step to ensure the triumph of God's word in this world.[32]

Betrayal of trust can be avoided by distributing public offices exclusively to the best available (*aṣlaḥ al-mawjūd*) for the charge in question. *Maṣlaḥa*, or acting with a view to the implementation of the public good, is upheld by precedents provided by Prophetic practice, the dictates of necessity (*ḍarūra*) and commonsensical considerations. Thus, all mingled together, these sources and criteria become the informing principles of the various choices to be taken by men of

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[26] I take the expression "ethical leadership" from John Knights, "Ethical Leadership: How to Develop Ethical Leaders", Routledge White Papers 2016: https://www.routledge.com/posts/9951 (last access: on October 5th 2016).

[27] *Siyāsa*, ed. Ḥarastānī, 13–40.

[28] *Siyāsa*, ed. Ḥarastānī, 25.

[29] For instance, Ibn Taymiyya, *Siyāsa*, ed. Ḥarastānī, 16, 25, 69.

[30] See Sophia Vasalou on the primacy of welfare, or utility, in Ibn Taymiyya, as the fore ground criterion for assessing the ethical value of human acts. Vasalou, *Ibn Taymiyya's Ethics*, 45-54, 100-102.

[31] Ibn Taymiyya, *Siyāsa*, ed. Ḥarastānī, 15–21, 35, 37, 39. The transliterated passage is from page 35, l. 2.

[32] *Siyāsa*, ed. Ḥarastānī, 37–39.

authority.[33] Embracing a highly utilitarian approach, the idea of "the best qualified" (for a given office with its given task) is the *leit-motif* running through this first thematic cluster. It allows enough flexibility for Ibn Taymiyya to move back and forth between the high ethical standards he sets for those in authority and the pragmatism of real life, both of which are well exemplified by the two main qualities every man of authority should be equipped with: trustworthiness (again, *amāna*) and force (*quwwa*).[34] Responding to the same pragmatic outlook, neither *amāna* nor *quwwa* consists of unchangeable prerogatives but depend on the context.[35] They vary accordingly to the office in question (*wa-l-quwwa fī kull wilāya bi-ḥasbihā*) and the goal of that specific office. Hence, strength and force in military command consists in courage, experience, shrewdness and the command of various military techniques, while strength and power in judging (*ḥukm*) is about knowing about what is fair and being capable of applying rulings.[36]

Eschatological threatening is generously scattered throughout these first pages of the treatise with the purpose of highlighting the sensitivity of the topic in question: "The Prophet said: 'When trust is lost, wait for the Hour!' It was said: 'Oh Messenger of God! What causes its loss?' He answered: 'When command is given to the person who does not deserve it, then wait for the Hour!'".[37]

II. Public wealth (*al-amwāl al-sulṭāniyya*)

The second form of trust "to be restituted" is public wealth. Hence, the second thematic cluster of the book revolves around the sources of income, the fair distribution and management of public revenues.[38] A fair distribution of public wealth is an ongoing concern for Ibn Taymiyya. He deals with it also in a short treatise titled: *Qāʿida fī al-amwāl al-sulṭāniyya*. There, one finds a similar classification of what constitutes "public money" and how it should be spent. Yet, in this text Ibn Taymiyya provides a historical excursus of how different rulers, from the Abbasids to the Ayyubids, adopted different financial policies or created new stipendiary posts (*al-waẓāʾif al-rātiba*). He highlights the extent to which these policies conformed or not to the practice of the Prophet and the Rightly Guided Caliphs and when their innovations were acceptable or not.[39] The overall picture of Islamic history that emerges from this excursus is one of ups and downs, of good and bad rulers, and not only and necessarily that of a straight line steadily descending towards corruption and decay.[40]

The section on *amwāl* concerns both rulers and ruled, writes Ibn Taymiyya. It is upon both parts to give each other what due. Justice is clearly conceptualized through the idea of an ongoing balance of lawful rights and claims. The Sultan and his representatives must give their subjects what they are entitled to, and in turn the subjects must not refuse to give them what required, nor will they ask for what they cannot claim.[41] This ideal order where everybody properly gives and asks according to his own place in society and with the ultimate aim to promote and protect the public good is inspired by the idea that public revenues are not private property and that men in authority are "agents, representatives and trustees, not owners" (*fa-innahum umanāʾ wa-nuwwāb wa-wukalāʾ laysū mullāk^{an}*).[42] They are not to follow their own whims, they are not to behave like

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[33] *Siyāsa*, ed. Ḥarastānī, 15, 28, 29, 31, 32–33.

[34] *Siyāsa*, ed. Ḥarastānī, 24–25, 27–29.

[35] Again Vasalou, *Ibn Taymiyya's Ethics,* 135 highlighting the context-dependence of human acts as typical of Ibn Taymiyya: "Where the value depends on the consequences (the utility) of actions, the same action can be good in some circumstances and bad in others".

[36] *Siyāsa*, ed. Ḥarastānī, 24–25.

[37] *Siyāsa*, ed. Ḥarastānī, 19–20. An examination of the eschatological materials used in this treatise is beyond the purpose of this paper. Nothing of this sort has ever been conducted on *al-Siyāsa sharʿiyya*.

[38] *Siyāsa*, ed. Ḥarastānī, 41–78.

[39] Ibn Taymiyya, *Qāʿida fī al-amwāl al-sulṭāniyya*, 283–299.

[40] I am engaging here with Belhaj, Law and Order, 400–422.

[41] *Siyāsa*, ed. Ḥarastānī, 45, 46, 47

[42] *Siyāsa*, ed. Ḥarastānī, 46.

kings who give out to whom they love and refuse to whom they hate. The Prophet used to state: "I don't give and I don't refuse. I only distribute and assign according to what I was ordered".[43]

Public revenues are of three types: spoils of war (*ghanīma*), alms (*ṣadaqāt*) and *fayʾ*.[44] *Ghanīma* is that which was taken from unbelievers by fighting. It should be divided in five parts as according to the Qurʾān (8:41). One fifth for "those mentioned by God" (i.e. the Messenger of God, that is the Imam, and his relatives, orphans, the needy and the wayfarer), the rest is for the *ghānimīn* which on the basis of a tradition attributed to ʿUmar ibn al-Khaṭṭāb, Ibn Taymiyya defines as those who have witnessed the fight, which means those went to the fighting place in order to fight, whether they actually fought or not.[45] Nobody is to receive more than his fellows on account of his origins, leadership or merit (*faḍl*). This statement seems to slightly contradict what comes a few lines afterwards, namely that the Imam enjoys the discretional power to distribute supplementary portions of spoils to those who caused major harm to the enemy.[46] Finally, those properties seized from the enemies that were once owned by Muslims are to be given back to the initial owners, when possible. Of course, Ibn Taymiyya is well aware that the intricacies of spoils distribution have tormented Islamic legal scholars for quite a while. Yet, his purpose is clarifying the general principles, as we have seen. He cuts the technicalities short, which as a matter of fact, also means leaving great discretionary power to the authorities.[47]

Ṣadaqāt, alms, are the second type of revenues and are to be distributed to eight categories of people as according to the Sunna. First the poor and the indigent, who are defined as those who lack sufficient means to live. Those who are self-sufficient (*ghanī*) or able to acquire some subsistence are excluded from this category. Poverty is a material business, not a spiritual one, Ibn Taymiyya seems to imply polemically.[48] Other than this, *ṣadaqāt* are for the officers in charge with collecting, guarding and registering taxes, for those whose heart is to be softened (a tricky category which is then discussed under *fayʾ*), for slaves or prisoners to be freed, for those who are unable to pay their debts, and finally for the militaries who do not have enough money to pay for their equipment as well for making *ḥajj* (both are subsumed under the *fī sabīl allāh* category). Finally, it comes the wayfarer, that is the person who goes from country to country.[49]

Fayʾ is the third type of revenue. It is usually understood as what is taken from unbelievers without fighting (the standard reference is Q. 56: 6-10). It includes *jizya*, properties agreed upon treaties, gifts sent to the Sultan from foreigner countries, taxes levied on merchants from territories that do not have a treaty with Muslims (*dār al-ḥarb*), or on *dhimmī*s who go and trade in other countries. *Kharāj* is also included, which is an indication that with time *fayʾ* also came to comprise money or properties coming from Muslims. For instance, all those properties that do not have a specific owner like an inheritance without heir, or deposits whose depositors are for some reason difficult to identify are *fayʾ*. Thus, *fayʾ* becomes in fact the term that indicates "collective wealth," or "revenue".[50] Ibn Taymiyya is well aware of changes occurring with time in matters of taxation. He presents a quick sketch of levies in which a most neat condemnation falls upon *mukūs* (miscellaneous or occasional taxes) and upon money levied in place of a *ḥadd* penalty, or retaliation.[51] The example is that of a collective monetary tax on a whole village where a homicide

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[43] *Ibid.*

[44] Public revenues are a standard topic of governance and administrative textbooks. Cf. for instance al-Māwardī who discusses more extensively than Ibn Taymiyya *zakāt, fayʾ* and *ghanīma, jizya* and *kharāj*. Cf. al-Māwardī, *al-Aḥkām al-sulṭāniyya*, 177–245. Ibn Jamāʿa, *Taḥrīr al-aḥkām*, 97ff.

[45] *Siyāsa*, ed. Ḥarastānī, 50.

[46] *Siyāsa*, ed. Ḥarastānī, 51.

[47] *Siyāsa*, ed. Ḥarastānī, 53. Cf. the discussion on *ghanīma* in Henri Laoust, *Essai*, 399 402. Laoust compares some of Ibn Taymiyya's choices with that of Ibn Qudāma (d. 1223) and other scholars of the four Sunni schools of law. In my opinion, Laoust remains a very useful reading.

[48] I am indebted to Henri Laoust for this specific point. Laoust, *Essai*, 397.

[49] *Siyāsa*, ed. Ḥarastānī, 55–56. Cf. Laoust, *Essai*, 397–98.

[50] *Siyāsa*, ed. Ḥarastānī, 57-59.

[51] Also Ibn Jamāʿa condemns *mukūs* without any space for negotiation, see *Taḥrīr al-aḥkām*, 145.

had been taken place rather than letting the victim's relatives request either for retaliation or blood money. Ibn Taymiyya specifies that the money is taken for the treasury (*li-bayt al-māl*),[52] and evidently disapproves the overlapping between taxes and punishment which, in his view, fosters corruption

After this classification, the real questions come. How should all these revenues be spent? And how should they not be spent? It is here that the reader detects a strong critique to the system.

"Much of the injustice (*ẓulm*) that happens is both from the part of rulers and the ruled: the former takes what is not permissible to take, and the latter refuses to give what is due. Like soldiers and peasants that sometimes do injustice to each other, sometimes people neglect some of the duties of Jihad, or men in authority accumulate of the wealth of God what is not permissible to accumulate. The same happens with inflicting punishments upon [not] rendering properties. Sometimes what is permissible (*mā yubāḥu*) or obligatory is neglected; some other what is not permissible (*mā lā yaḥillu*) is carried out. The basic principle is: Whoever owes some property [or money] [to somebody else] must give it back" (*kull ʿalayhi māl yajibu adāʾuhu*). [53]

This statement is followed by a cascade of examples. It can be a man in charge with a deposit, somebody participating in a sharecropping (*muzāraʿa*), a *muḍāraba* transaction or a partnership contract.[54] It can be the money of an entrusting part (*māl li-muwakkilihi*), that of an orphan, of a *waqf*, or the Public Treasury. It can be a debt that the debtor is able to settle, but does not. In this case, he will be imprisoned, eventually tortured, until the debt is settled, just as the Prophet did in Khaybar with Saʿya, the uncle of Ḥuyayy ibn Akhṭab from the Banū Naḍīr, when Saʿya tried to cover his nephew who had hidden his possessions from the Prophet.[55] The wide array of examples employed here serves the purpose of reminding the reader that the principle is incumbent upon every single member of the community, not on rulers only. Interestingly, from the mid 14th century onwards, the sources register a shift in the administration of debts' cases from Qāḍīs to *siyāsa* officers with the aim of providing justice, not only Law, or better equity at the expense of the formalism of the Sharīʿa.[56]

As much as justice was previously conceptualized trough the notion of rights and claims, injustice now consists in taking (or giving) what is not permissible, or in refusing to give what due. Accordingly, public officers must not demand gifts (*hadāya*) from ordinary Muslims. Rewards (*muḥābāt*) requested by officers for the accomplishments of certain services have the same status as such gifts, which the just ruler will ask his officers to restitute. When such illicitly taken property

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[52] *Siyāsa*, ed. Ḥarastānī, 60. A similar sketch is proposed in *Qāʿida fī amwāl al-sulṭāniyya*, where it is discussed more in detail and in historical perspective, p. 391ff.

[53] *Siyāsa*, ed. Ḥarastānī, 61.

[54] A *muḍāraba*: "A commercial association whereby an investor (*rabb al-māl*) entrusts capital to an agent (*muḍārib, ʿāmil*) who trades with it and shares with the investor a pre-determined proportion of the profits." The quotation is from: Wakin, Muḍāraba.

[55] *Siyāsa*, ed. Ḥarastānī, 62. Ibn Taymiyya touches on the issue of torturing the suspect when it is known that the illicitly taken property is by him *MF* 35: 406–407 (*Bāb al-qaḍāʾ*). Ibn Qayyim al-Jawziyya, who significantly expands on this point, possibly takes it from there and not from *al-Siyāsa*. Cf. Ibn Qayyim al-Jawziyya, *al-Ṭuruq al-ḥukmiyya*, 1: 14–18. The relevant ḥadīth can be found in: Abū Daʾwūd, *Sunan*, *k. al-Kharāj wa-l-imāra wa-l-fayʾ* (kitāb 20), *b. Mā jāʾa fī ḥukm arḍ khaybar* (bāb 24). Ibn Taymiyya refers to al-Bukhārī who does not report the text: cf. *Ṣaḥīḥ, k. al-Shurūṭ* (kitāb 54), *b. Idhā ishtaraṭa fī al-muzāraʿa: idhā shiʾtu akhrajatuka* (bāb 14). According to al-ʿImrān, Ibn Taymiyya took the text of the ḥadīth from al-Ḥumaydī's (d. 1095), *Jamʿ bayna al-ṣaḥiḥayn*, cf. *Siyāsa sharʿiyya*, ed. al-ʿImrān, 61–62, n. 6.

[56] See Rapoport: Royal Justice and Religious Law, 82-84, 87. Discussing a famous case of unsettled debt described by al-Maqrīzī, Rapoport writes: "The chamberlain punished them, presumably torturing them, until they disclosed the wherabouts of the money that they were hiding" (p. 83). "Them" refers to a group of Cairene merchants owing money to some Persian merchants which bought their goods but did not pay for them. Johansen has extensively written on the introduction of torture as a means to obtain a confession. Johansen: Verité et torture and idem: La découverte des choses qui parlent.

cannot be given back to its owner, it will be spent for the common good (paying soldiers, for instance, or equipping frontier areas with horses and weapons).[57] Good officers must inform those in power (*dhū al-sulṭān*) about the needs and conditions of ordinary people (*al-nās*), and must deflect him from corruption.[58] Collaboration with those who pursue their own whims is totally off the mark.[59]

Equally strict morals apply to the expenses of public money (*fayʾ*) which should be employed first and foremost to pay those who operate for "the public utility" (*al-manfaʿa al-ʿāmma*): soldiers and holders of public offices. That is judges, scholars, financial officers, the Imam leading the prayer, those calling to prayers and so forth. Then, public money is to be employed for necessary public works (dams, bridges, canals…), finally for the needy. And Ibn Taymiyya here argues, against other scholars, using again as a precedent ʿUmar ibn al-Khaṭṭāb's practice, that the needy is entitled to have from both alms and *fayʾ*.

The two leading criteria for spending public money are then need and utility (*ḥāja, manfaʿa*). No money is to be given out on the basis of personal ties or for activities which are prohibited: paying effeminates, prostitutes, singers, magicians, astrologers.[60] Spending money on *taʾlīf al-qulūb*, that is to attract unbelievers to Islam or support already obedient Muslims, is subsumed under "public utility" and is regarded as obligatory.[61] The soundness of these grants, whose corruptive nature Ibn Taymiyya is well aware of, depends on the intention of the giver. [62]

This moralizing tone escalates and pervades the last pages of this section where people are classified in three groups as according to their attitudes towards wealth.[63] First of all come the greedy ones who spend for their own interests and personal power (the implicit critique to the system is sweeping) then the prudent, quietist ones who neither spend for themselves, nor for the system. Their attitude of general abstinence ends up in refraining them from complying to their duties. Disdainful of these groups, which represent the two extremes against which Ibn Taymiyya sets up his own *via media* (*wasaṭ*), the Ḥanbalī scholar identifies as the best the third group which spends money, and does it reasonably, for the public good only. In a nutshell, the pursuit and expenditure of public wealth for any other purpose other than advancing the interests of the community is strongly condemned. It is again the notion of common good which sets the parameter for determining the value of men's acts

We do not know whether Ibn Taymiyya's book was ever read by the ruling elite, by the Sultan al-Malik al-Nāṣir himself (d. 1341) or somebody of his entourage.[64] If it was ever, one may

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[57] On this specific point, cf. *Siyāsa*, ed. Ḥarastānī 66 and *MF*, 28: 592–597, in particular 594–597. Ibn Taymiyya will come back time and again on the importance of restituiting illicitly taken properties (debt, theft etc…) and on the idea that whenever it is impossible to identify the original owner, such property is to be spent for the public good. See also his discussion of *muḥāraba*, 108, 110. On the prohibition to accept gifts, see also Māwardī, *Aḥkām*, 196, the context is that of *zakāt* collection.

[58] *Siyāsa*, ed. Ḥarastānī, 62–65.

[59] *Siyāsa*, ed. Ḥarastānī, 65.

[60] *Siyāsa*, ed. Ḥarastānī, 69–73. On the prohibition to pay astrologers for their activity, see also Ibn Taymiyya, *MF*, 35: 195 and 197. Ibn Taymiyya's fatwas on astrology are translated and commented upon by Michot, Ibn Taymiyya, 147–208.

[61] *Siyāsa*, ed. Ḥarastānī, 72–73. On *taʾlīf al-qulūb* see also p. 111 where public money is to be spent on persuading the leaders of particularly obnoxious gangs of brigands, who assault people to take their properties, to collaborate with justice or prevent further damage.

[62] *Siyāsa*, ed. Ḥarastānī, 73.

[63] *Siyāsa*, ed. Ḥarastānī, 76–77. The passage is discussed by Michael Cook and is in turn commented upon by Anjum (Cook, *Commanding Right*, 157; Anjum, *Politics, Law*, 239–41). It is to be pointed out that Ibn Taymiyya is here classifying people according to their different attitude towards money. More specifically he discusse the rulers' gifts for reasons of state (the point is well taken by Cook, *ibid.*, n. 93), and not to political authority in general. Later on, at the end of the book, Ibn Taymiyya proposes a similar classification of human beings, but this time his parameter his their attitude to power. Cf. *Siyāsa*, ed. Ḥarastānī, 194–195.

[64] According to Henri Laoust, in *al-Siyāsa al-sharʿiyya* Ibn Taymiyya addresses especially the Sulṭān al-Malik al-Nāṣir. Cf. *Essai*, 98, fn. 2, *Traité*, xii, xxvii-xxix and "Biographie", 150-151.

well reach the conclusions that the impact of Ibn Taymiyya's advice as in *al-Siyāsa al-sharʿiyya* on the Sultan's financial and recruitment policies must have been close to zero. Bribery, corruption, purchase of posts, disrespect of rules set by predecessors, lavish distribution of *iqṭāʿāt* and grants to secure loyalties, grand expenses for the Sultan personal pleasures and hobbies are only some of the misdoings that characterized al-Malik al-Nāṣir's third reign (1310-1341), during which the text was supposedly composed.[65] Independently from its readership, the intensity of Ibn Taymiyya's critique to the system is impressive and it becomes even spikier in the following section where the coercive power of political authorities is fully advocated. It is here that the harshest side of *al-siyāsa al-sharʿiyya* comes to light.

III.   The limits and rights.
The limits set by God: punishment, and else.

An efficient and effective punishment is an intrinsic element of justice and as such it forms a good lump of the third thematic cluster which revolves around the fixed penalties set by God and on the obligations represented by His rights (*ḥudūd allāh wa-ḥuqūquhu*).[66] As said above, just as the first part of the treatise unfolded around the Qurʾānic idea of "rendering trusts" (Q. 4: 58), the second one revolves around the remaining section of the verse: "And when you judge (or rule) among people, judge (or rule) with fairness" (*ʿadl*). But *ʿadl*, equity of fairness, is also the word Ibn Taymiyya employs for justice. Thus, ruling with equity, fairness or "justice" is the lynchpin of the second part of the treatise and a crucial component of Ibn Taymiyya's concept of "just *siyāsa*". Indeed "justice", but only tangentially the judicial.

ʿAdl entails first of all the due application of the fixed penalties set by God.[67] In fact, punishment aims at restoring a loss, or the rights of those who were deprived of them, at compensating the damage for a received offense thus creating a condition of equality and parity,[68] and finally punishment is also a deterrent from further offences.[69]

Ibn Taymiyya follows the well established pattern of *fiqh* literature which has the discussion about the fixed penalties set by God and His rights precede that of men (all in all eight chapters each). Thus, the first part (*bāb*) opens with the *ḥudūd* penalties and with a heavy emphasis on not neglecting the application of such penalties, which are are part of the "commanding right and forbidding wrong" duty.[70] This section on *ḥudūd* offenses and God's rights also includes chapters on discretional penalties and on Jihad.

Ḥudūd offenses are those concerning the community as a whole. They are amongst the most pressing duties of men in authority and are to be pursued without waiting for claims to be brought in front of officials (*yajibu ʿalā al-wulāt al-baḥth ʿanhu wa-iqāmatuhu min ghayr daʿwa aḥad bihi*).[71] The *ratio* behind this sort of recommendation is that of achieving punishments for criminal offences more effectively. It is in fact well known that the formalistic attitude towards proof typical

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[65] On al-Malik al-Nāṣir's third reign, see Levanoni, *Turning Point*. Al-Maqrīzī (d. 852/1442), writing some decades later identifies bribery as one an endemic cause of decay. See Allouche, *Mamluk Economics*, 52–53.

[66] *Siyāsa*, ed. Ḥarastānī, 79–186 (*al-Qism al-thānī, al-ḥudūd wa-l-ḥuqūq, wa-fīhi bābān. Al-bāb al-awwal: ḥudūd allāh wa- ḥuqūquhu. Siyāsa*, ed. Imrān, 83-194. Chpaters have no titles in al-ʿImrān's edition.

[67] Anjum, 241-244 highlights Ibn Taymiyya's emphasis on justice as "the ultimate political virtue".

[68] *Siyāsa*, ed. Ḥarastānī, 173 discussing the *ratio* of retaliation: *wa-huwa* (i.e *al-qiṣāṣ*) *al-musāwa wa-l-muʿādala*. The passage unfolds as a commentary of Q. 2: 178-178 (*kutiba ʿalaykum al-qiṣāṣ...*). See Vasalou, *Ibn Taymiyya's Ethics*, 51-53 and 243-244. Vasalou (p. 316, fn. 109) remarks that the text of *al-Siyāsa* is a short reprise of the longer treatment of the topic that Ibn Taymiyya carries out in his *tafsīr* of Q. 2:188-189. Vasalou also observes how in this commentary Ibn Taymiyya claims a rational, or natural, ground for the normative force of this prescription (p. 243). Cf. Ibn Taymiyya, *MF*, 14:73-87, in particular 77-79.

[69] *Siyāsa*, ed. Ḥarastānī, p. 119, 165, 173.

[70] *Siyāsa*, ed. Ḥarastānī, 81–95, 119.

[71] *Siyāsa*, ed. Ḥarastānī, 81.

of *fiqh* made *ḥudūd* offences extremely difficult to prove also at the time Ibn Taymiyya was writing.[72]

Ibn Taymiyya begins with swiftly emphasizing points which are typical of the legal treatment of *ḥudūd* penalties, namely that they should not be lifted once brought in front of the relevant authorities, not pardoned by intercession (*shafāʿa*).[73] Consistently, he stresses that it is absolutely prohibited to take money from the offenders in order to cancel the penalty. This kind of money is illicit and immoral (*sukht khabīth*); it is indeed a form of bribery.[74]

The study of chronicles and recent research on the criminal history of the Mamluk period highlight the serious threat to security that brigandage represented.[75] This situation is reflected in al-*Siyāsa al-sharʿiyya* as well where "brigands" (*al-muḥāribūn*) are the category of *ḥudūd* offenders that attract Ibn Taymiyya's most attention.[76] In comparison, theft (*sariqa*), fornication (*zinā*), the drinking of alcohol (*sharb khamr*) and consumption of intoxicating substances, the false accusation of fornication (*qadhf*), cover a limited number of pages in both versions of the book.[77] *Al-muḥāribūn* are those troublemakers, bandits and robbers, who raid the countryside or the desert, and openly attack people to rob them. In so doing, they may cause the victims' death. Whole gangs of shady characters (brigands, be they Bedouins amongst Arabs, Kurds or Turcoman, peasants, dissolute soldiers or even insubordinate gangs of the urban populace) surface from the book depicted as a huge cause of disruption, insecurity and impoverishment.[78] Such disruption of the public order is to be repressed. In order for this to happen, rulers must apply the right form of *ḥadd* penalty.[79] When the offenders are not seized, they will have to be fought with the best of all possible means. A whole chapter is dedicated to the duty of fighting brigands.[80] War is therefore also part of this punishment-oriented logic as remarked by Baber Johansen.[81]

Working by analogy, and keeping the definition of *ḥirāba* very general as an aggression carried out in order to rob somebody or as an attack that brings about the general disruption of the public order, allows Ibn Taymiyya to extend its punishment to certain patterns of aggressions that do not necessarily take place in an opened space, such as assaults and thefts in homes, secretly premeditated killing (*al-qatl ghīlatan*), or even regicide, whose status of *ḥirāba* remains a matter of disagreement among scholars, he writes.[82] Similarly, when discussing the *ḥadd* penalty for drinking intoxicants Ibn Taymiyya tends to keep the discussion short and provide generic definitions on the authority of the Prophet: "Traditions on this subject are plenty and widespread. The Messenger of God subsumed under the same category (*jamaʿa*) – according to the principles he was provided with (*bimā ūtiyahu min jawāmiʿ al-kalām*) – every substance that obscures reason and intoxicates. He did not make a difference between this and that … They are all forbidden".[83] The issue in question here is hashish consumption.

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[72] See Yossef, Rapoport, in: Royal Justice and Religious Law, and Baber Johansen, in: Signs as evidence.

[73] *Siyāsa*, ed. Ḥarastānī, 82-86, 119.

[74] *Siyāsa*, ed. Ḥarastānī, 87–88 and following.

[75] See Petry, *Criminal Underworld*, 47–73. Martel-Thoumian, *Delinquance*, 53–54 although the books considers crime and criminal justice at the end of the Mamluk period.

[76] *Siyāsa*, ed. Ḥarastānī, 94–118.

[77] *Siyāsa*, ed. Ḥarastānī, 119–136.

[78] *Siyāsa*, ed. Ḥarastānī, 97, see also 88.

[79] Specifically on Ibn Taymiyya's treatment of banditry in his *Siyāsa*, Khaled Abou El Fadl, *Rebellion and Violence in Islamic Law*, Cambridge: Cambridge University Press, 2001, 276-277.

[80] *Siyāsa*, ed. Ḥarastānī, 107–118.

[81] Johansen, Perfect Law, 276. When discussing the various ways of executing the death penalty, al-ʿImrān's edition has a supplementary passage on killing by burning (*taḥrīq*) which is missing from the Ḥarastānī's edition. Cf. *Siyāsa*, ed. al-ʿImrān, 106–107. Ibn Taymiyya does not take a stand on the issue. He only briefly explains that *taḥrīq* is a matter of *ikhtilāf* among scholars.

[82] *Siyāsa*, ed. Ḥarastānī, 103–105.

[83] *Siyāsa*, ed. Ḥarastānī, 135.

Significantly, Ibn Taymiyya also eludes the intricate discussion of *shubha*s, yet another device that fulfills the goal of easing the application of *ḥudūd* penalties. In *fiqh* literature, *ḥadd* penalties are neutralized by an element of "ambiguity", or "uncertainty" which is called *shubha*. A *shubha* is what makes the prohibited act resemble a permissible one. The jurists argue that the intervention of this element of doubt invalidates the penalty. Of course, they discuss the single cases and often do not agree, but share the idea that this notion of "ambiguity" operates because it is grounded on a prophetic precedent that instructs believers to "avert the *ḥadd* penalties by means of ambiguous cases" (*idraʾū al-ḥudūd bi-l-shubuhāt*).[84] In other words, a *shubha* repels the *ḥadd* penalty because it brings forth an unforeseen circumstance that uncovers the internal weakness of the norm. Again, sidestepping the intricacies of ambiguous cases not only conforms to Ibn Taymiyya's initial proposition of staying general, but also entails that whenever such cases arise they can be dealt with by the respective public officers with a good degree of discretion.

The restitution of stolen property remains a major concern in these chapters too. Cooperation and complicity with delinquency is a cause of social corruption and as such is also heavily targeted.[85] The previously mentioned principle that imprisonment and beating are the means to resort to in order to obtain a confession about the whereabouts of a certain amount of stolen money is now applied not only to the debtor refusing to pay off a debt he is capable of settling, but to all aggressors refusing to give back illicitly taken properties as well as to all their accomplices who do not reveal where the stolen objects are, nor where the responsible ones are hiding.[86]

Discretional penalties (chap. 7) are part of the system and concern all those infractions (*maʿāṣī*) regarding which there is no fixed penalty. Three factors impact on the harshness of a discretional penalty: the reputation of the offender, the gravity of the offense and its frequency.[87] Once again, rulers enjoy a high degree of discretion in choosing the type of penalty. Such penalty can be capital when the crime cannot be stopped otherwise and the offender is likened to somebody who disrupts public order (*mufsid fī al-arḍ*).[88]

The last chapter (chap. 8) of this section is on Jihad. It is a peculiar chapter. Out of twenty-five pages (in Ḥarastānī), less than a half are effectively dedicated to war.[89] This is not what one would expect from the belligerent Ibn Taymiyya, and this is not what we usually read about *al-Siyāsa al-sharʿiyya*.[90] Fighting is, first of all, a form of punishment for domestic enemies, meaning offenders who have not been seized. They consist of groups of rebellious Muslims (*ṭāʾifa/ṭawāʾif mumtaniʿa* is the recurrent expression). These can either be Muslim dissidents refusing to comply with clear and authoritative religious prescriptions, or brigands violating people's life and properties, hence disrupting the public order. While Ibn Taymiyya dealt with the latter category in the preceding chapter,[91] whoever is familiar with his *fatāwā* against dissident Muslim minorities

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[84] For a thoughtful discussion of this matter, see Fierro, *Idraʾū l-ḥudūd*, 208–38. Rowson, in: Shubha. Rabb, in: Legal Maxims, and now also, *Doubt*.

[85] *Siyāsa*, ed. Ḥarastānī, 113–118.

[86] *Siyāsa*, ed. Ḥarastānī, 108, 110, 112–115. Interestingly at page 110, Ibn Taymiyya does not ground his argument on the Hadith about Saʿya's claim that the possessions of his nephew had all gone (cf. p. 62), but on Q. 4: 34 where the husband is allowed to beat her wife when she does not comply with her duties.

[87] *Siyāsa*, ed. Ḥarastānī, 137–138. On reputation also 166–168. Compare with Māwardī, *al-Aḥkām al-sulṭāniyyœ,* 358-361. Al-Māwardī's treatment of the topic is more detailed and focused on *ikhtilāf*. He also deals with the possibility of pardon or intercesson for offences requiring a discretional penalty, but the criteria for applying *taʿzīr* and deciding on its entity are entirely the same (cf. *Aḥkām*, 358).

[88] *Siyāsa*, ed. Ḥarastānī, 139–140. The position of Mālik admitting death penalty for certain crimes is mentioned, in particular his admissibility of killing the Qadariyya for their being a cause of public disturbance (p. 139). Death penalty for magicians (*sāḥir*) is also reported as an example (p. 140).

[89] *Siyāsa*, ed. Ḥarastānī, 143–153.

[90] For instance, Johansen, Perfect Law, 276: "Prayer and war according to Ibn Taymiyya are the supreme political forms of religion" and 281; Fons, Mongols, 31–68, in particular 55: "Le chapitre consacré au djihad, dans la *Siyāsa sarʿiyya* est particulierment parlant."

[91] *Siyāsa*, ed. Ḥarastānī, 107–108.

knows that the refusal to abide by the major duties of Islam is the leading argument Ibn Taymiyya uses to justify wars against these groups of people.[92] While this principle is clearly enunciated in these pages of *al-Siyāsa al-shar'iyya*,[93] in a cursory but nonetheless interesting passage Ibn Taymiyya explains how to deal with groups "who do not rebel" (*ghayr mumtani'īn*), live in the territory of Islam, but neglect the obligatory religious duties, such as prayer. Here, refusal (*imtinā'*) is not identical with rebellion. These people must be forced to perform religious duties, eventually they will be put to death if they refuse to do so, especially, if they acknowledge the obligatory character of such rituals, but will not be fought.[94] This passage is puzzling. It seems at odds with the many texts about fighting Muslim minorities in volumes 28 and 35 of the *Majmū' al-fatāwā* where the refusal to comply with prescribed religious duties is the pivot of the pro-jihad argument against disobedient Muslims. On the contrary, the passage in question implies that the lack of compliance to religious duties is a sufficient, but non-necessary condition for waging Jihad, the necessary condition being political insubordination, the classical precedent of the Khawārij is in fact not incidental.[95] This passage also suggests that *al-Siyāsa al-shar'iyya* may have been written in a moment free from war pressure since it does not display the uncompromising fury and apologetic character that other Taymiyyan writings on the same topic do, as Henri Laoust had also observed long time ago.[96] On the contrary, it has been recently pointed out that exhorting the Mamluks to fight against the Mongols was the main concern of Ibn Jamā'a's treatise.[97]

The other type of Jihad is the classic one against the infidel enemy (*kuffār*) and does not seem to particularly attract Ibn Taymiyya's attention. More, the unbeliever's unbelief (*kufr*) that does not hinder Muslims from practicing their religion, will be a source of damage exclusively to himself.[98]

Both types of war can be offensive or defensive, but the defensive one is clearly the issue for Ibn Taymiyya. Contributing, participating, in a defense war is in fact a duty incumbent upon every single Muslim. On the contrary, participating in an offensive war is a voluntary act and a collective duty, which means that the whole of the community is exempted by it once the duty is carried out by a sufficient number of people.[99] All these considerations, which typically are of legal nature, are preceded by a whole lump of exhortative materials on Jihad made of Qur'ānic verses, Hadith and rational, as in commonsensical, arguments (... *ẓāhir al-i'tibār*).[100] Such as: Jihad is the most useful religious duty both in this life and the next because it resumes in itself all forms of interior and exterior worship and always carries with itself one of the two good actions, either victory or death as a martyr and paradise, and since we all live and die, living and dying in Jihad is living and dying in the outmost bliss. Once more, what defines the ethical value of this specific obligation is its overall utility.[101] The scriptural and non-scriptural materials which are located at the opening of the chapter display a genuine mobilizing and motivating function.

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[92] The classic example in the Taymiyyan corpus are the *fatāwā* against the Mongols, *MF* 28: 502–503, 510–511, 545, 546. On these texts, see Denise Aigle, The Mongol Invasions.

[93] *Siyāsa*, ed. Ḥarastānī, 93, 149-150, 151 and 152.

[94] *Siyāsa*, ed. Ḥarastānī, 153. Compare with Māwardī, *Aḥkām,* 338-39 where Māwardī deals with the person who does not perform ritual prayer. Al-Māwardī's discussion provides details of juristic disagreement. Ibn Taymiyya gets away with the issue in nine lines.

[95] *Siyāsa*, ed. Ḥarastānī, 150–151.

[96] Laoust, *Essai*, 98, n. 2.

[97] Anjum, Ibn Jamā'a. I thank Mustafa Banister for drawing my attention to this point.

[98] *Siyāsa*, ed. Ḥarastānī, 143, 149.

[99] *Siyāsa*, ed. Ḥarastānī, 152–153,

[100] *Siyāsa*, ed. Ḥarastānī, 143–147.

[101] *Siyāsa*, ed. Ḥarastānī, 147: *fa-innā naf' al-jihād āmm li-fā'ilihi wa-li-ghayrihi fī al-dīn wa-l-dunyā ... wal-l-jihād anfa' fī himā min kull 'amal shadīd.*

The remaining pages of the chapter deploy a variety of reflections of ethical and practical nature. They are sensibly longer in al-ʿImrān's edition that not only provides more scriptural materials in support of the arguments,[102] but also displays a final part of the chapter which is totally missing in the other version of the text.[103] The discourse switches here from the exhortative tone and concrete legal preoccupations of the previous pages to an ethical level.

This section of the chapter touches on the importance of accomplishing religious duties, on the rulers' obligation to care about their subjects' material and spiritual life, on the virtues that are most helpful for such task (*ikhlāṣ* and *tawakkul, iḥsān* and *ṣabr*) and on the acts of worship (*ṣalāt* and *zakāt*) that allow such virtues to be practiced and cultivated and that nourish the moral integrity (*ṣalāḥ*) of both ruler and subjects.[104]

Yet "just siyāsa" is not exclusively about the rulers' and its agents' coercion, or monopoly of violence. Men in authority are instructed to be patient and gentle in words to ease their subjects' hardships.[105] In fact, human beings accept justice (*al-ḥaqq*) only when it tends to the fulfillment of their pleasures, or desires (*ḥuẓūẓihā*), which coincide with their needs.

Such fulfillment of human needs is also an integral component of man's worship and obedience to God. The example is that of drinking, eating and clothing. These are needs and desires which are serving ritual performance, for without food, drinks and cloths no ritual obligation could ever be carried out. The result is that the means to fulfill obligatory ends are also obligatory.[106] According to this standpoint, spending for one's self and one's own family is a priority and an individual duty.[107] In a similar perspective, but elsewhere, precisely in his writing on *Ḥisba*, Ibn Taymiyya allows those in power to control prices under circumstances that produce unfairness. The prices of items necessary to ritual performance or fulfillment of religious duties (equipment for *ḥajj* or water for *ṭahāra*) is also to be controlled to make sure that ordinary people are enabled to observe their ritual and religious obligations.[108]

Enjoying permissible pleasures is also highly recommended for again they help accomplish one's duties.[109] More, what is pleasurable is useful, and by pursuing what is pleasurable within the limits of the law, man pursues what benefits him. Again, in very synthetic terms, Ibn Taymiyya presents a *summa* of his utilitarian ethical vision, one where what is useful and beneficial, especially at a communal level, is also ethically good and one where the spiritual and material well-being of the individual is functional to that of the whole: "God originally created pleasures and desires to achieve the communal welfare of his creatures, for by those means they attract what benefits them".[110]

If means are functional to ends, if punishments were revealed (*shuriʿat*) to refrain from prohibited acts and invite to obligatory ones, equally prescribed, and necessary (*fa-qad shuriʿat ayḍan ... fa-yanbaghī)* is whatever is meant to support good and prevent evil. The verb *shuriʿat* is important. It puts emphasis on the authority of such prescriptions: prophetic Hadith mainly, Qurʾānic verses and Companions' deeds. It is specifically when it comes to precautionary measures (*al-ḥadhr*) that the newly discovered version of *al-Siyāsa al-shariʿiyya* has something important to say; important because it helps reconstruct a more thorough vision of Ibn Taymiyya's project as formulated in this work.

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[102] For instance, compare Ḥarastānī, p. 164 to al-ʿImrān, pp. 178-179 where a series of Hadith and Qurʾanic verses in support of the argument are quoted.

[103] *Siyāsa*, ed. Ḥarastānī, 154–168; *Siyāsa*, ed. al-ʿImrān, 166-191; the portion of text that runs from page 188, l. 4 (from below) to page 191 is not in Ḥarastānī.

[104] *Siyāsa*, ed. Ḥarastānī, 155-160.

[105] *Siyāsa*, ed. Ḥarastānī, 161.

[106] *Siyāsa*, ed. Ḥarastānī, 161-162.

[107] *Siyāsa*, ed. Ḥarastānī, 162 and 163. Cf. also Ibn Taymiyya, *MF*, 20: 151.

[108] Ibn Taymiyya, *MF*, 28: 75–79.

[109] *Siyāsa*, ed. Ḥarastānī, 162–164.

[110] *Siyāsa*, ed. Ḥarastānī, 164. See Vasalou, *Ibn Taymiyya's Ethics*, in particular 42-46, 73, 84-92 on what is ethically good, on an individual and communal level, and its direct relation with pleasure and benefits.

Both versions of the texts provide examples of how to encourage good and prevent evil, and both state that while *ḥudūd* penalties can be applied only when proved (*illā bi-l-bayyina*), precautionary measures are exempted from the severe limitations of evidence.[111] This point is particularly significant for the legitimization of precautionary provisos with a view to protect the public good also empowers the discretional power of rulers. It is a point that will fully be taken by subsequent understandings of the concept of *siyāsa sharʿiyya*, starting with Ibn Qayyim al-Jawziyya and his long treatise on proof and evidence.[112]

In the pages missing from the shorter version of the treatise Ibn Taymiyya locates in the religious scholar and the ruler (*al-wālī wa-l-ʿālim*) the authorities responsible for identifying evil (*sharr*), its causes and signs (*amārāt*). The metaphor of the physician is used to describe their task. By knowing (*khibra*) evil, its signs and causes, scholars and rulers protect society. In a sentence that seems to contradict the initial pages of the book where we saw force (*quwwa*) being one of the mandatory prerogatives for an effective practice of authority, Ibn Taymiyya states that: "Conducting (*siyāsa*) by personal judgment and experiential knowledge (*khibra*) is greater and more beneficial than conducting by bravery and force".[113] Scholars and rulers are solicited to acquire familiarity (*khibra*) with different expressions of evil: unbelief, depravation, "the conditions of the enemies in their religious and worldly matters" so that they can cure the heart from its diseases (the imaginary here is Qurʾānic).[114] Such diseases consist of corrupted morals, and when morality is involved the *ʿulamāʾ* are as well.[115] There is a final point to be made regarding these pages, one that brings to our attention to the collective dimension that Ibn Taymiyya has so far privileged. Men of authority are encouraged to know and identify evil and its causes, but they are equally instructed to avoid punishing "sins" (*dhunūb*) when they damage only its perpetrator. Once again the author's concerns are projected beyond the individual level following a line of thought that encouraged not to make public what ought to be concealed.[116]

These pages are significant for several reasons. First, in it Ibn Taymiyya seals an ideal pact of cooperation between scholars and (undefined) political authorities which is a distinctive trait of his vision of government according to the religious normativity, as also previously underlined by Baber Johansen although in a much more circumstantial reading of the treatise.[117] By doing so, Ibn Taymiyya leaves no doubt about which social groups are to be invested by the "healing" power he has just described. Furthermore, by setting at the center of the stage a generic elite composed of *ʿulamāʾ* and *wulāt*, the text suggests that very likely these were the social groups that are addressed in this famous treatise of his which, contrary to Ibn Taymiyya's usual style, unfolds neatly without major digressions nor vehement polemical invectives.

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[111] *Siyāsa*, ed. Ḥarastānī,167-168; *Siyāsa*, ed. al-ʿImrān, 187-188.

[112] Cf. for instance on the issue of *istifāḍa* (good or bad reputation) in judicial testimony. Ibn Taymiyya only briefly states that *istifāḍa* is sufficient to exclude somebody from testimony. Ibn al-Qayyim reprises the matter and expands it to the point of considering bad or good *istifāḍa* as valid forms of proof in judicial procedure. Ibn Qayyim al-Jawziyya, ed. Nāyif ibn Aḥmad al-Ḥamad, Mecca: Dār ʿālam al-fawāʾid lʾil-nashr waʾl-tawzīʿ, 1428 [2007], 535-537.

[113] *Siyāsa*, ed. al-ʿImrān, 190.

[114] Cf. Q. 2:10, 5:52, 8:49, 9:12, 22:53 *et passim*.

[115] *Siyāsa*, ed. al-ʿImrān, 189-190.

[116] *Siyāsa*, ed. al-ʿImrān, 190-191. This is an attitude that seems to have developed by scholars specifically during the Seljuk period as a reaction to intrusive *muḥtasib*'s activity. Cf. Lange, Changes of Hisba ander the Seljuqs.

[117] Johansen in: A Perfect Law stresses that Ibn Taymiyya viewed political power as a condition for the survival of religious life (p. 286 specifically). He also puts forth a highly circumstantial reading of the text according to which Ibn Taymiyya tried to provide Mamluk rule with religious legitimacy through his doctrine of *siyāsa sharʿiyya* (p. 261). Such a circumstantial reading is rejected by Anjum, *Politics Law and Community*, 30-31. According to Anjum, the complexity of Ibn Taymiyya's political thought can be understood only within the broader context of his epistemological and theological vision. On this point, I agree with Anjum.

And the rights of God?
"The first part [of this section of the book] [is about] the duties and rights not of specific individuals. Their utility (*manfaʿa*) is for all Muslims, or for a certain kind of them. All Muslims need them. These are named the fixed penalties set by God and the rights of God".[118]

These words occur at the very beginning of the second *qism* of the book. We have observed how this second part of *al-Siyāsa al-shariʿiyya* sets off to explore the *ḥudūd* and *ḥuqūq* of God. As a matter of fact, yet, it is only Ibn Taymiyya's long treatment of *ḥudūd* (together with discretional penalties and Jihad) that we have so far encountered. However, did not Ibn Taymiyya dispose that he would discuss the *ḥuqūq* of God as well? The question is a legitimate one for the shorter version of the book shifts straightaway from the composite chapter on Jihad to individual rights and duties, which will be illustrated below. Where are then the *ḥuqūq allāh*?

The *ḥuqūq allāh* are missing in the short version of the book, but present in the long one. These pages are critical because they provide an insight into the concept of *siyāsa shariʿiyya* as conceived by Ibn Taymiyya; a concept which, despite all, remains undefined throughout the book.

Ḥuqūq allāh, Ibn Taymiyya explains:

"is a name that comprises everything in which there is common utility (*al-manfaʿa al-ʿāmma*) - they do not relate specifically to a determined individual - or everything in which there is repulsion of common damage in what pertains to religious or worldly matters, like the supervision of mosques, their imams and *muʾadhdhinīn*, of waqfs, streets and estates (*ḍiyāʿ*), or the revification of prophetic customs (*sunan*) and the mortification of misguiding innovations, [like] giving precedence to whom makes good use of this or to others among the best of people, the companions of religion and religious knowledge, the pious and God-fearing ones among all sorts of people, [and like] avoiding sinners and transgressors, the treacherous, liars and impostors, and else among the common benefits (*al-maṣāliḥ al-ʿāmma*)".[119]

Having defined the meaning of *ḥuqūq allāh* as every sphere of action and every type of person in which and by whom the common good is promoted, Ibn Taymiyya proceeds into a brief historical excursus in which he tells us that the Prophet would undertake all the tasks (relating to the public good) by himself, occasionally delegating some of them. After him, the (Rightly Guided) Caliphs would appoint Qāḍīs who consulted with them in cases of doubt, as for the times after the Caliphs things diversified and began to change. As a result, some of these matters were managed by the military authority, which is identified by Ibn Taymiyya with the *shurṭa*, some by the *muḥtasib* and some by Qāḍīs. What Ibn Taymiyya is here trying to tell his interlocutors is that with time the prerogatives of public offices changed, depending on historical circumstances, lexical conventions and the abilities of the single officers. Such offices have never been defined by the Sharīʿa.[120] People, he explains, erroneously overlap the Law with the concept of "religious normativity", and thus came to think that the only public office that concerned with the religious normativity is that of the Qāḍī:

"Things are not like this. Rather, the religious normativity (*sharʿ*) is a name that applies to what of the Book and wisdom (*ḥikma*), God - the Highest - sent His Messenger Muḥammad with. The ruling that derives from it is binding on all men. Every man in authority (*wālī*) is to conform to this religious normativity",

he writes.[121] A few lines before he had uncompromisingly stated that:

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[118] *Siyāsa*, ed. Ḥarāstānī, 81.
[119] *Siyāsa*, ed. al-ʿImrān, 191-192.
[120] *Siyāsa*, ed. al-ʿImrān, 192-194.
[121] *Siyāsa*, ed. al-ʿImrān, 193.

"Every aspect of public functions in which one acts in obedience to God and His Messenger is an office in accordance to the religious normativity (*wilāyat sharʿiyya*). Every aspect in which one acts contrary to it or in which what is obligatory is omitted is not in conformity with the religious normativity (*lam takun sharʿiyyat^{an}*)".[122]

These passages are a decisive key to Ibn Taymiyya's understanding of *siyāsa sharʿiyya*. Ibn Taymiyya briefly elucidates the pivotal concept of *sharʿ* and how this fully applies to the world of public charges. These words also explain why Ibn Taymiyya is not interested in the institution of the Caliphate, in its legitimacy, nor in any other specific governmental, military, religious or administrative institution. It is not important which officer does what, but how and with which aims each officer acts.[123] It is worth noting that the Ḥanbalī scholar expresses a very similar position in his treatise on *Ḥisba*, which once again may explain not only why the two texts were bound together in the same codex, but also why these passages were taken off in the shorter version of the text.[124]

IV.   Rights and duties of single individuals

So far, Ibn Taymiyya's spotlight has been the communal dimension as exemplified by the notions of *ḥudūd* and *ḥuqūq* of God. Yet, the last part of the treatise focuses on the rights and duties of the single individual, or better on *ḥudūd* penalties concerning the particular individual and on his own rights. Hence, ruling with fairness, equity and justice is not only a matter of punishment and jihad. The care for the communal welfare that distinguishes Ibn Taymiyya's view of "ethical leadership" also engages with certain aspects of the single individual's life. It is yet another piece of the puzzle.

The section on individual rights and duties is divided in eight chapters as well, like the one which precedes it, in an intended symmetrical construction which possibly also entails a balance of thematic significance. The emphasis keeps on being on the Qurʾānic verse: "And when you judge (or rule) among people, judge (or rule) with fairness". Despite its title (*al-Ḥudūd wa-l-ḥuqūq li-ādamī muʿayyan*), the focus goes well beyond punishments.[125] Once more, the concern for the sustainability of ordinary's people life, a remarkable feature of Ibn Taymiyya's thought in general, emerges with particular force and more prominently in the longer version of the text. It is then again important to take into consideration the edition of Muḥammad al-ʿImrān.

The opening chapter is about the necessity of applying retaliation (*qawd*) to the category of killing envisaged by the law. The subject attracts Ibn Taymiyya's concern. One can get a glimpse of how homicides cases often went out of control, the victim's family perpetrating savage private revenge of the offender's relatives, even after the punishment had been meted out.[126] It is again the disruption of public disorder provoked by such actions that disturbs Ibn Taymiyya.

It is in the chapters respectively on marital law (*al-abḍāʿ*) and transactions (chap. 5 and 6) that once again the longer version of the text shows significant additions to the "vulgate". In the chapter on marital law, barely one page in the text edited by Ḥarastānī, Ibn Taymiyya provides a very concise spectrum of controversial issues he also debates elsewhere, in less known texts. Here, Ibn Taymiyya is mainly concerned with the changes in wedding transactions that become visible in the legal literature and documents of the time, as Yossef Rapoport demonstrated in his book on

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[122] *Ibid.*

[123] Cf. also Baber Johansen in: Signs as Evidence, 184-185 and in: Perfect Law, 268-269.

[124] Ibn Taymiyya, *MF*, 68-67 (*Ḥisba*). The passage from the *Ḥisba* is well known and has been quoted many scholars. For instance, Frank Vogel, *Islamic Law and Legal Systems*, 227.

[125] *Siyāsa*, ed. ʿImrān has no title.

[126] *Siyāsa*, ed. Ḥarastānī, 173, 175. More on homicide cases in the legal doctrine and daily life of that period in Carl Petry, *Criminal Underworld*, 203–251. Apparently, punishment by way of retaliation and blood-money was very little applied.

marriage and divorce in Medieval Islam. In particular, Ibn Taymiyya is critical of the use of designating the deferrable portion (*al-muʾakhkhar,* or *al-muʾajjal*) of the marriage gift (*al-ṣadāq*) not as a sum which had to be paid to the wife in case a separation due to divorce or the husband's death, but as a due debt (*ḥāll*), payable upon demand. He is also troubled by the monetization of the *nafaqa,* or marital support. Usually due by husbands in kind, from the beginning of 14th centuries payment in the form of daily allowances became increasingly widespread. Both changes allowed an empowerment of women. They challenged a "patriarchal ideal of conjugal harmony" and, in the eyes of somebody like Ibn Taymiyya, of course also a determined ideal of social order.[127] It is fascinating that such matters, usually brought in front of Qāḍīs, ended up in a book which is usually considered to be on good governance, jihad and the coercive power of the state.[128]

The chapter on transactions, again extremely brief in Ḥarastānī, is again very lively in the long version of the text where Ibn Taymiyya expands on a series of issues he also discusses in his *Precept on ḥisba.* Again, this explains why the unknown scribe of the Sülaymaniyya MS 1553 Shahīd ʿAlī Pāsha copied the text together with the *Qāʿida fī al-ḥisba.*[129] As mentioned before, *al-Hisba,* which is considered by modern scholars as one of the "political writings" by Ibn Taymiyya, was perceived as a next of kin to *al-Siyāsa al-sharʿiyya* already in the 14th century. The section on *ḥisba* in Ibn al-Qayyim al-Jawziyya's *al-Ṭuruq al-ḥukmiyya* also supports this point.[130]

In addition to giving us a list of prohibited transactions, which is there also in Ḥarastānī, and reminding his reader that it is upon the man of authority (*wālī al-amr*) to promote the prohibition of such transactions, in this chapter Ibn Taymiyya also ventures in a description of different types of fraud, or cheating (*ghishsh*), which he describes as selling items which are outwardly different from what they are inward.[131] *Ghishsh* includes counterfeiting coins (*kasr al-sikka*) and selling products obtained by alchemy (*al-kimyāʾ*). Alchemy is the art of transforming base metals into precious metals, usually silver or gold;[132] accordingly, Ibn Taymiyya writes: "Alchemy is to produce what looks like gold and silver, or likewise what looks like precious stones, musk perfume (*ṭīb min al-misk*), safran, amber and so forth".[133] Alchemy challenges God's distinctive power of creation deluding men that they can also create; but men fabricate (*ṣ.n.ʿ*), they do not create (*kh.l.q*). Alchemy is similar to *al-sīmīyāʾ:* "Which is sorcery (*siḥr*) that induces imagining a given thing differently from what it is".[134] Leaving aside theological considerations, the reason for the prohibition of selling substances or items obtained by way of alchemy is that they are in the end the outcome of a high-quality counterfeiting process (*al-zaghal al-jayyid*), hence, a form of cheating. Reproaching and punishing such cheaters is an important duty of men of authority. Jurists - Ibn Taymiyya writes - have not dealt with this matter before.[135]

Finally, men of authority are reminded to supervise the holders of the *ḥisba* office so that they properly perform their job when they enter into matters of prices and cheating. In a nice closing passage, Ibn Taymiyya apologizes for this digression by explaining that: "Nowadays much

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[127] "A patriarchal ideal of conjugal harmony" is from Rapoport, *Marriage*, 52.

[128] *Siyāsa,* ed. al-ʿImrān, 210–216, in particular 211-214. Ibn Taymiyya, *MF* 34: 77–88 (*Bāb al-nafaqāt*). All this is missing from *Siyāsa* where he only mentions twice that the *nafaqa* is according to convention (*bi-l-maʿrūf*), ed. Ḥarastānī, 183. See the discussion in: Rapoport, *Marriage*, 51–68.

[129] Sülaymaniyya MS 1553 Shahīd ʿAlī Pasha, ff. 77r–89v.

[130] Ibn al-Qayyim, *al-Ṭuruq al-ḥukmiyya,* 2: 620 ff. The section on *ḥisba* is highly indebted to Ibn Taymiyya, but never devoid of Ibn Qayyim's al-Jawziyya's own insights.

[131] *Siyāsa,* ed. al-ʿImrān, 221. Cf. also *MF,* 28: 72 (*Qāʿida fī al-ḥisba*).

[132] Again, here and in what follows, Ibn Taymiyya produces a highly synthetic view on the nature, purpose and legitimacy of alchemy which he discusses at length elsewhere, in: *MF,* 29: 368–388 and 389–391 (*Bāb al-khiyār*). For an overview on alchemy, cf. Forster, Alchemy.

[133] *Siyāsa,* ed. al-ʿImrān, 223.

[134] *Siyāsa,* ed. al-ʿImrān, 223, 224, 225.

[135] *Siyāsa,* ed. al-ʿImrān, 223 and 225.

of the complaints (*shakwā*) from single individuals regard judgement amongst people in matters of money and adjudication".[136]

On the whole, these pages challenge the ritualistic and formulaic character of governance literature and show the extent to which Ibn Taymiyya dynamically engages in the social and economical life of his time. Nothing of it is left in the sort version of the text.[137]

A final look at the last two chapters is in order. They are famous and, mostly, what we find summarized in secondary literature about Ibn Taymiyya's *al-Siyāsa al-sharʿiyya*. They close the book circularly bringing the reader back to the ethical outlook that opened it. Interestingly enough, these two chapters are not about *fiqh*, not even that sort of simplified *fiqh* we find in many portions of the book. They are of advisory and exhortatory nature. As such they display a complete different character from the previous six chapters. Still, they are kept within this whole section of the text that discusses men's rights and duties.

The penultimate chapter (chap. 7) lingers on the necessity of mutual consultation (*mushāwara*), and the very last (chap. 8) on the indispensability of power (*imāra, sulṭān*) as the means to support religion in this world.[138]

Men in authority cannot do without consulting. This is what the Prophet did all the time when he was unsure about how to act. Who they are to consult is not so clear. The text keeps generic. Indication is given that, amongst the consultations received, the man in authority must choose the one which is closest to the Book and the Sunna. According to Ibn Taymiyya, those who possess authority (*ulū al-amr*) are the emirs and the *ʿulamāʾ*. This statement resembles the one we have seen before, except that here the generic *wulāt* of the previous pages is turned into a more specific and circumstantial *umarāʾ*, that is more specifically the Mamluk military emirs holding power in Ibn Taymiyya's time. These are to act in obedience to the Book and the Sunna. Whenever problematic situations arise, knowledge of scriptural indications is an obligation. However, this straightforward prescription (which by the way also suggests that those who have command of these scriptural *corpora* be the recipients of the rulers' request for consultation)[139] is immediately softened by the idea that obligations are compulsory only within the limits of everybody's capabilities.

The last chapter is even better known. The chapter gradually unfolds as a lecture on the foundation and the necessity of power with an escalating preaching tone towards the end. Reason, scripture and experience (*tajriba*) are the sources of the argument which is thus supported by a composite set of epistemological tools. Since people live in society the common good and their needs will be fulfilled only through mutual cooperation, this is the rational argument. Groups (society) must always have a leader; the source for such statement is "scriptural", namely Hadiths quoted to support this idea. This passage closely resembles, albeit presented more synthetically, the opening pages of the *Qāʿida fī al-ḥisba*.[140] Commanding right and forbidding wrong, promoting justice and complying with religious obligations are the ultimate objectives of political functions. These will take place only when enforced by strength and command (*quwwa wa-imāra*). This invocation on force as the unmissable *tessera* for the mosaic to be complete and things to work properly reminds us of the beginning of the book. Here, it develops as a commentary to the reported traditions, but it also is paves the way to the third kind of epistemological source, which is *tajriba*.

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[136] *Siyāsa*, ed. al-ʿImrān, 217–226, quotations from 223, 225, 226. On counterfeiting coins by means of diluting metal, Stilt, *Islamic Law*, 176–181.

[137] *Siyāsa*, ed. Ḥarastānī, 175–176.

[138] *Siyāsa*, ed. Ḥarastānī, 187-190; 191-198 to be compared with *Siyāsa*, ed. al-ʿImrān, 227–231; 232–243.

[139] This is corroborated by a passage from his book on judgeship in which Ibn Taymiyya writes that when those in power do not have command of the practice of the Prophet or of the Salaf, they must be supported and advised by the experts in the field. This is what the Rightly Guided Caliphs did: when they were unsure about something, they consulted the *Ṣaḥāba* (*MF*, 35: 384–85). On *mushāwara* see also Ibn Jamāʿa, although much briefer. Ibn Jamāʿa is clear crystalline that the *ʿulamāʾ* are the ones who give advice to the rulers. Cf. *Taḥrīr*, 72.

[140] *MF*, 28: 61–68 (*Ḥisba*); in particular p. 62-65

Tajriba, experience, is an empiric form of knowledge. For having repetitively experienced it over time, men have learnt that corruption, disorder, and loss of common interests result from lack of leadership.[141] In this perspective, the rather generic function of providing counsel to men in authority mentioned in the previous chapter acquires more meaning. Providing counsel to rulers is conceived as a contribution to the proper functioning of the "public good", it should not be a way of advancing one's own worldly aspirations, but an opportunity to get closer to God. In a similar perspective, the function of all *wilāyāt* is commanding right and forbidding wrong, promoting justice (*ʿadl*) and helping man get closer to God. As a result, despite men were created equals, in the end: "It is inevitable according to reason and religion (*la budda fī al-ʿaql wa-l-dīn ...*) that some men be above others".[142] Experience is here excluded as an empirical source for justifying the necessary superiority of some above others. Be as it may, the challenge is not to abuse of power and money, but make sure that both resources are devoted to the implementation of God's will in this world, that is for the benefit of all.

Al-Dunyā yakhdimu al-dīn: "The world is at service of religion". This lapidary statement occurs towards the very end of the treatise.[143] Yet, the whole of *al-Siyāsa al-sharʿiyya* demonstrates that, without a proper management of *dunyā*, religion would not be granted its appropriate place in this world. Ultimatly, thus, Ibn Taymiyya's treatise outlines a symbiotic relationship between man and God, or perhaps between worldly power and God, whose logical implication, as paradoxical as it can sound, is that both are in need of each other.

5.   Conclusions

The initial questions, put forth in the title of this paper, were: one or two two versions of *al-Siyāsa al-sharʿiyya* of Ibn Taymiyya? And what do they tell us?

Let us start from the first question. As far I could examine so far, we are definitively in front of two versions of the treatise. One is sensibly longer than the other which, for some reason, enjoyed wider transmission. The shorter version may be an abridgement of the long one since it is usually presented as a *risāla mukhtaṣara*. At this stage, we do not know nor we we have any idea of whom might have carried out this eventual abridgment. In addition, the two texts do not present contrasting differences, namely they do not seem to contradict each other.

Yet, the recently discovered Sülaymaniyya MS 1553 Shahīd ʿAlī Pasha and the new edition based on it provide critical passages missing from the most widespread version of the text that further our insights into the meaning of this work and make of it, both in terms of structure and contents, a more coherent construction. For instance, the absence of the promised treatment of the obligations represented by God's rights (*ḥuqūq allāh*) from the short version of *al-Siyāsa* creates, there, a disruption in the logical thread and content-organization of the text that is fortunately filled in by the long version. Similarly, the very concise treatment of the rights of single individuals in the short version produces a thematic unbalance that misled scholars to locate in punishment and jihad the prevailing preoccupations of *al-Siyāsa al-sharʿiyya* as a whole. When we consider the long version of the text now at our disposal in al-ʿImrān's edition things change. Thanks to this version of the text we acquire a more exhaustive picture of the topics broached by Ibn Taymiyya, and through it we can attempt a deeper understanding of his project.

This paper intended to offer a contribution in this direction by redressing the common view that this famous work of Ibn Taymiyya is basically about jihad, coercion, punishment and the public order. There is more to it. *Al-Siyāsa al-sharʿiyya* unfolds concisely, yet displaying a very complex and rich texture where a variety of meanings interplay.

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[141] What *tajriba* consists in is explained only in the longer version of *Siyāsa*, ed. al-ʿImrān, 233. According to Vasalou, Ibn Taymiyya heavily draws on the resources of the philosophers when addressing the notion of experience in other writings of his. Vasalou, *Ibn Taymiyya's Ethics*, 72-73. For experience as a source of ethical knowledge, pp. 67-74.
[142] *Siyāsa*, ed. Ḥarastānī, 195.
[143] *Siyāsa*, ed. Ḥarastānī, 197.

al-Siyāsa al-sharʿiyya is not only about jihad. Jihad is of course one major religious duty, but in itself jihad does not occupy a devastating position in this specific text. When one compares it with other writings of Ibn Taymiyya on the same topic, written in times of war, the difference in tone, length and even contents, as seen, are undeniable. *al-Siyāsa al-sharʿiyya* is also not a description of public offices, nor is it focused on the Imam, his legitimacy and requisites. This ruler-decentered perspective was perceptively noted long ago by Erwin Rosenthal, then picked up by Sherman Jackson and recently pushed forward by Ovamir Anjum.[144] Finally, *al-Siyāsa al-sharʿiyya fī iṣlāḥ al-rāʿī wa-l-raʿiyya* is, also, not about the judicial. I will illustrate this specific point in further research.

On the contrary, I argued that Ibn Taymiyya's famous treatise is first and foremost about "ethical leadership". The ethical dimension of *al-Siyāsa sharʿiyya* was recently caught by Abdelsamad Belhaj in a thoughtful reading of the text which is, yet, very much focused on the public order of which the treatise would be a very harsh critique: "*Siyāsa sharʿiyya* is an ethical criticism of the community and of the state with a strong emphasis on coercive justice".[145] Or, again in Belhaj's words, *siyāsa sharʿiyya* is the remedy conceived by Ibn Taymiyya "to a corrupted public order that challenges the legitimacy and the survival of Sharia".[146] Yet, to fully support this stance one would have to define what *sharīʿa* was for Ibn Taymiyya. For the time being, it will suffice to observe that in his treatise Ibn Taymiyya does not discuss this word as such, and that he also rarely uses it.

But let us go back to the idea of "ethical leadership". This idea implies action (ruling and else) beyond personal interests and for the promotion and protection of the common welfare. In turn, this entails a focus on the goals of public authority, not on the institutional forms such authority is embedded into. Such a focus on means and goals points to a highly utilitarian vision. In operating for the common good, men in authority are not at loose. They are restrained by the Qurʾānic obligations to be trustworthy and fair. The big questions then are what the common good consists in and how men in authority know the contents of such common good.

The common good is defined first and foremost by *sharʿ* (not *sharīʿa*), or the "religious normativity", which unfortunatly is never explicitly discussed in the treatise. However, at least on the surface, Qurʾān, Prophetic Hadith and the examples set by the Companions and the early generations of Muslims, at times motivated by considerations of hardship and need, mostly provide the ground for good actions. Here and there, occasional commonsensical considerations, or rational arguments, crop up in the text. Towards the end, experience (*tajriba*) is brought into play as one of the sources proving the necessity of leadership. The highly synthetic nature of the text and the density that results from it may be deceitful (I suspect) and hide other epistemological resources used by Ibn Taymiyya, but never fully discussed or acknowledged.

The Qurʾān instructs rulers to give back trusts to their owners (Q. 4:58). This scriptural injunction forms the normative ground for the proper management of public wealth required from rulers and their agents. Hence, *al-Siyāsa al-sharʿiyya* is also very much concerned with the materiality and sustainability of people's life. For some reason, this material aspect of the story has not attracted the attention it deserves, with the notable exception of Baber Johansen.[147] A decent material life is the necessary companion to a most upright spiritual life (*ṣalāḥ al-dīn wa-l-dunyā* is an expression that occurs dozens of times) and assuring a decent material life is one of the rulers' duties. In order for this to happen, not only the public order will have to be protected and at this end an effective punitive scheme activated, but also, public resources will have to be spent for the common utility and fairly distributed. This is a crucial point and one that is addressed to the community as a whole. Although rulers bear more responsibility, every member of the community is to be involved into a constant activity of a balanced give and take with a view to the collective

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[144] Rosenthal, *Political Thought*, 52. Jackson, *Islamic Law*, xxii. Anjum, *Politics Law*, in particular 27 and 249–252.
[145] Belhaj in: Law and order, 420-421 (the quotation is from p. 420).
[146] *Ibid.*
[147] Johansen, A Perfect Law, 278-279.

welfare. This gaze to the "flock" and not only to its "shepherd" – both parts are addressed in the title of the book – is remarkable and fully emerges in the very last section of the treatise which is dedicated to people's duties and rights.

Individuals must carry out their duties, but the authorities must operate in order that such duties be effectively performed and people's claims protected. Perhaps because of their small size, these chapters have been virtually forgotten by all scholars who made an effort to make sense of this text, at least to my knowledge. At this point the new edition by Muḥammad al-ʿImrān – based on Sülaymaniyya MS 1553 Shahīd ʿAlī Pāshā – steps into the scene and once again adds new meanings to the text. Here, Ibn Taymiyya tackles economical issues relating to marriage practices, which were gaining recognition at the time, and frauds in markets. In this respect, the text shows a very close (and not so surprising) relationship with al-Ḥisba. Of course, Ibn Taymiyya approves none of this. Fraud also involves the fabrication of fake products and, according to Ibn Taymiyya, alchemy plays a major role into counterfeiting. So, here we are, alchemy steps into a portion of al-Siyāsa al-sharʿiyya so far unnoticed dedicated to correct market practices suggesting that it must have been quite a popular craft at the time. Apart from this, were not marriage and markets the two social spaces *par excellence* where people met, interacted, negotiated their daily lives, supported themselves and their families? And is it not intriguing that these portions of the text did not survive in the version al-Siyāsa al-sharʿiyya which enjoyed a more widespread transmission? Their omission may speak of what was expected from governance literature at the time, although al-Māwardī and more succinctly Ibn Jamāʿa do have sections on ḥisba. More positively, their omission speaks of a textual history yet to be discovered concerning the relationship, and partial overlapping, between the *Precept on ḥisba* and *al-Siyāsa al-sharʿiyya*. Certainly, its presence in the long version is an indicator of Ibn Taymiyya's points of interests. For the common good to be implemented and "ethical leadership" to be practiced, that is for "just *siyāsa*" to take place, the private space of marriage and the public space of markets, each with their own actors, had to abide by certain rules.

Concluding, without Sülaymaniyya MS 1553 Shahīd ʿAlī Pāshā and Muḥammad al-ʿImrān's edition of the text, we would have never gained these insights nor would we have these fascinating new questions in front of us. On the whole, this material opens the door to the study of *al-Siyāsa al-sharʿiyya*'s manuscript transmission and textual history. Such history is in its infancy, pursuing it is urgent.

6.   Bibliography

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