VIZIER AND ALIM GIVING POLITICAL ADVICE: ETHICAL ARGUMENTATION IN ASAFNAME AND USUL AL-HIKAM

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ABSTRACT

This article provides a parallel reading of Lutfi Paşa's *Asafname* and Hasan Kafi's *Usul al-Hikam*, both 16th century Ottoman siyasetnames. These books, the former penned by a prominent member of the bureaucracy and the latter by a middle ranking scholar, were compared in terms of the religious references they make, and the justifications they provide for specific recommendations. It was found, as was expected, that *Usul* uses religious references and religious justification more frequently than *Asafname* does. However, formal/rule-based justification, a larger ethical category encompassing the religious as well as traditional and legal justification and defined in opposition to utilitarian/consequentialist justification, was used more frequently by *Asafname*. Despite its heavily religious language and the religious background of its author, *Usul* used utilitarian arguments more frequently than formal ones when making recommendations. This finding suggests that, of the two main schools of legal reasoning in Islamic law, ahl el-ra'y and ahl al-hadith, Hasan Kafi was probably closer to the former. The article also develops a novel method for the content analysis of political advice, identifying recommendation chains that consist of two parts: recommendation itself, and the justification provided for the recommendation. This way, it becomes possible to make quantitative analyses of the overall tone of argumentation in the texts under study.

Key Words: siyasetname, Asafname, Usul al-Hikam, ethics

BİR VEZİR İLE BİR ALİMİN SİYASETLE İLGİLİ TAVSİYELERİNİN KARŞILAŞTIRILMASI: ASAFNAME VE USULÜ'L HİKEM'DE KULLANILAN AHLAKİ GEREKÇELER

ÖZET

Bu makalede 16. yy. Osmanlı siyasetnamelerinden Lütfi Paşa'nın *Asafname*'si ile Hasan Kafi Akhisari'nin *Usulü'l Hikem*'i karşılaştırılacaktır. Birincisi sadrazamlık da dahil olmak üzere birçok üst düzey görevde bulunmuş bir devlet adamı tarafından, diğeri ise çeşitli vilayetlerde kadılık ve müderrislik görevlerinde bulunmuş bir din adamı tarafından kaleme alınmış olan bu iki eser, kullandıkları dini referansların içeriği ve siyasetle ilgili tavsiyelerinin ne şekilde gerekçelendirildiği bakımlarından paralel bir okumaya tabi

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tutulmuştur. Beklendiği üzere dini referansların ve dini içerikli gerekçelerin *Usulül'l Hikem*'de *Asafname*'den daha fazla kullanıldığı görülmüştür. Bununla beraber, daha geniş bir kategori olan ve hem dini, hem geleneksel, hem de yasal gerekçelendirmeyi içeren kurala dayalı/formel argümanların *Asafname*'de daha fazla kullanıldığı görülmüştür. Dini bir eğitim alan ve dini referansları metin içinde sıkça kullanan Akhisari ise *Usulü'l Hikem*'deki siyasetle ilgili tavsiyelerini kuralcı değil, daha çok faydacı argümanlarla desteklemiştir. Bu bulguya dayanarak, Akhisari'nin erken dönem İslam hukukundaki iki temel yaklaşım olan eh-i rey ve ehl-i hadis'ten birincisine daha yakın olduğu söylenebilir. Makale ayrıca siyasi tavsiyelerin içerik analizi için kullanılabilecek bir yöntem de önermektedir. Buna göre bütün tavsiyeler biri tavsiyenin kendisi, diğeri de tavsiyenin gerekçesi olmak üzere iki parçadan oluşan terkipler olarak değerlendirilebilir. Bu yöntem kullanıldığında, incelenen metinlerin içerdikleri ahlaki argümanların sayısal bir analizini yapmak mümkün hale gelmektedir.

Anahtar Kelimeler: siyasetname, Asafname, Usulü'l Hikem, ahlak.

Lütfi Pasha's (1488-1563) *Asafname* is one of the earliest, and probably the most cited[1] Ottoman example of the mirror for princes literature. Hasan Kafi Akhisari's (1544-1615) *Usul al-Hikem fi Nizam al-Alem* was written in 1596, somewhat later than *Asafname*, and is also an important piece in this literature.[2]

The two works, both of the 16th century Ottoman writing and accurately classified as *siyasetname*s, also differ in two important respects. First, their authors have different socio-economic and educational backgrounds. Lütfi Pasha is a high-ranking member of the scribal bureaucracy, who held, among others, the office of Vezir-i Azam for two years during the reign of Suleyman the Magnificent. Hasan Kafi is properly classified as a middle-ranking member of the ulema, who served as qadi and muderris in different provinces. Another differences is that *Asafname*, as indicated by its name, is addressed at fellow viziers; whereas *Usul al-Hikam* is addressed at rulers in general, among them the Sultan and the imperial bureaucracy.

It will be the aim of this article to examine how differences in authors' backgrounds and audiences addressed implicate on the content of these books. In other words, two works containing political advice will be compared and contrasted over a number of content characteristics, with emphasis on religiosity and the form of ethical arguments.

Initial Observations

At the outset, the two books[3] are different in their organization, in how they present/classify their subject matter. *Asafname* proceeds as a listing of recommendations neatly organized under four issue areas: first, vizier's relations with the Sultan; second, management of military campaigns; third, management of the treasury; and fourth, management of the people (*tedbir-i re'aya*). Under each heading, relevant recommendations are listed. Following some individual recommendations, Lutfi Paşa also offers reasons or justifications for the specific recommendation; although for most recommendations, no explicit justification is offered. *Usul al-Hikam* is also organized in four main chapters, after a somewhat longer introduction, but the chapters are organized on the basis of goals and specific recommendations, not administrative issue areas. The first and the last chapters, which state goals to be achieved and ways of achieving them,

are on "things that bring out order in the sultanate" and "things that bring God's help and victory", respectively. The second and third chapters are reserved for specific recommendations: the former recommends "*müşavere* (consultation with others), *istihare* (asking for divine guidance through a dream), *rey* (opinion) and *tedbir* (management)", and the latter makes the case that "the use of war tools is a must".

Another content characteristic closely related to the different overall organization is the ordering of individual recommendation chains. In *Asafname*, most of the time the justification follows the recommendation: "Do this, for it is such and such". An example from the text would be "*Ve beytü'l-mal namına olan akçeyi Bab-ı Humayun'da varisi gelince saklayalar. (...) Zira emval-i halk bi-vech dahil-i mal-ı padişahi olmak fena-yı devlete daldır*"[4], where the author suggests that non-claimed estates be kept in the treasury until the heirs arrive, for transferring people's wealth to the Sultan without due process leads to the demise of the state. In *Usul al-Hikam,* on the other hand, justification comes first, followed by the recommendation: "If you want this, do such and such." An example from the text would be "*Dinür ki padişahlığun sebatı adl iledür*"[5], where the author anonymously cites that persistence of the sultanate is possible only with justice.

Although it is possible that different ordering is a result of personal preferences on the part of the authors, it might also result from the different levels of specifity, which forms a third content characteristic on which the books diverge. The advice in *Asafname* is very specific and much to the point, whereas *Usul al-Hikam*'s advice is framed in very general terms. If the proposals were to be turned into law, a whole constitution could be carved out of *Usul al-Hikam*, especially from the first chapter, whereas *Asafname*'s proposals are fit for making regulations, for the Prime Minister's office.

Religious Language

Uğur counts *Asafname* among those *siyasetname*s that contain few references to Quran and hadith and few stories. Usul al-Hikam, on the other hand, is counted among those *siyasetname*s that make heavy use of those.[6] İpşirli also makes the argument that the most important aspect of *Usul al-Hikam* that sets it apart from contemporary Ottoman *siyasetname*s is its heavy use of quotes from Quran, hadith and famous people.[7] So religiosity is a good beginning point to start comparing the two works.

To detect religiosity in language, all religious words and phrases were coded and counted. In all, religious personalities, religious terms, and religious expressions common in the language were coded, as well as quotes from Quran and hadith. The first category consisted of references to Allah, to the prophets including Muhammed, to companions of the Prophet, and associated praise words/phrases. The second category consisted of religious terms of a somewhat technical nature, like fard, dar al-Islam, tevekkul, sharia, etc., most of which have a strict definition in the fiqh literature. The third category consisted mostly of Arabic phrases common in the language, the utterance of which seems to result more from linguistic conventions than religious intent, like inşaallah and maşaallah in modern Turkish, but also including phrases not common today, like bi-'avnillahi te'ala, ne'uzü billah, ez'af-ı 'ibadullah, cennet-mekan, firdevs-aşiyan, etc. These three were not counted when they appeared in quotations from Quran and hadith, which were treated as separate categories.

Overall, *Asafname* contained 99 religious references and *Usul al-Hikam* 329 (see Table 1). Considering that *Asafname* is an approximately 5600-word piece, and *Usul al Hikam* a 9800-word one, these figures mean that Lutfi Paşa used a religious expression once every 57 words, and Hasan

Kafi, a religious scholar, used a religious expression once in every 30 words, indicating a more frequent usage. Broken down into constituent categories, the distinction becomes more clear.

Table 1. *Religious references*

	Quran	Hadiths	"Allah"	"Prophet(s)"	"Companions"	Technical Terms	Common Phrases
Asafname	3	1	15	7	6	30	37
Usul al-Hikam	13	15	80	39	32	131	18

Usage of common phrases like inşaallah and maşaallah, which constitutes the category with the highest hits in *Asafname*, and whose religious character is debatable, is very rare in *Usul al-Hikam*. On the other hand, religious terms with a technical definition in the fiqh literature, which are arguably the most meaningful measure of religiosity, make up a huge proportion of all the religious references in this book. Hasan Kafi being a qadi and muderris with a strong background in religious disciplines, among them fiqh, probably accounts for the latter. Lower usage of common phrases, on the other hand, is a mystery at first look. However, it may be explained by the fact that *Usul al-Hikam* is a translation, where the author was probably more concerned with being accurate than following linguistic conventions. Still, this is an interesting difference between two authors with different backgrounds and how much of it is actually attributable to translation and how much to personal preferences or to social/educational backgrounds is an open question.

Religious Justification

Whenever a recommendation is supported by a verse from Quran, a hadith, or a story/citation from Prophet's companions and earlier prophets, then there is religious justification for this specific recommendation. In addition, the author himself may argue, without citing any evidence from religious sources, that this act is a religious requirement (*fard, wajib*), that it leads to other-worldly benefits or that God likes it, etc., which again constitutes an instance of religious justification. Separate from religiosity in language use, this measure should serve as a better indicator of the ideological commitments of the two authors.

Asafname makes use of religious justification 6 times for 5 separate recommendations. *Usul al-Hikam* makes use of religious justification 58 times for 30 separate recommendations. These figures, of course, are more meaningful when weighed against other types of justification.

Legal and Traditional Justification

Legal justification is present whenever the content of a recommendation is said to be law. Traditional justification is present when a recommendation is supported by the practice of past rulers, viziers or peoples.

These categories are most of the time exclusive and have easy-to-follow rules. In two cases, however, additional elaboration was needed. One is the case of Prophet's or companions' practice, which could be coded both as traditional and religious justification. Religious justification coding was preferred in this case to isolate tradition that doesn't have religious roots. A second problem emerged with the practice of past Ottoman Sultans, which could be coded both as traditional and legal justification. In this case, double coding was preferred. For it is more difficult to separate traditional from legal justification, than to separate traditional from religious.

Thus a total of four categories emerged: Religious, traditional, legal and traditional/legal. Religious/legal category, although not ruled out, was not observed. The distribution of these categories in the two advice books is shown in Table 2.

Table 2. Formal justifications

	Religious	Legal	Traditional	Traditional/Legal
Asafname	(10,2%) 6	(59,3%) 35	(8,5%) 5	(22%) 13
Usul al-Hikam	(76,3%) 58	(0%) 0	(23,7%) 18	(0%) 0

Usul al-Hikam contains no legal justification, whereas in *Asafname* legal justification is the most frequently used category, accounting for a larger proportion of all justifications than the religious, traditional and traditional/legal categories combined. *Usul al-Hikam* uses more of pure traditional justification than *Asafname* does, whereas combined with the traditional/legal category, *Asafname*'s use of traditional justification makes up a higher percentage.

Utilitarian vs. Formal Justification

Religious, legal and traditional justifications together form the category of formal/rule-based ethical arguments, as opposed to utilitarian/consequentialist ethical arguments. The distinction between deontological and teleological theories of ethics is a well-established one, and together, the two are thought to contain a rather large chunk of moral theorizing, if not all. Thomas R. O'Connor distinguishes between deontological and teleological theories on the basis of "(1) the inherent nature of the act -- or (2) the consequences of the act."[8] The idea that morality consists of following certain rules regardless of their consequences is a deontological position, as captured by Kant's notion of duty. If, on the other hand, the morality of an act is to be judged on the basis of its consequences, then we have a teleological position. Formalism and utilitarianism, as formulated by Kant and Mill, are usually given as two specific theories best exemplifying these two approaches; when they are not used interchangeably, that is. For the purposes of this paper, the adjectives 'formal', 'rule-based' and 'deontological' will be used interchangeably, as well as 'utilitarian', 'consequentialist' and 'teleological'.

Although the distinction between the two approaches is well established at a theoretical level, at the empirical level things get blurred. Not everyone has a professed systematic approach in dealing with ethical matters –which is very unlikely indeed, unless they are theoreticians-, nor, in case there is a professed approach, does it have to conform to this categorization. Yet it is possible to make use of this distinction at the theoretical level in an empirical study, with a little twist.

The twist is, 'formal' and 'utilitarian' become attributes of individual justifications, not whole systematic theories. Justification is part of a recommendation chain, which consists of a recommendation –a proposed course of action- and a justification –the reason offered for taking this course of action-. The justification is said to be utilitarian when the offered reason for acting in a certain manner is a certain benefit associated with that action. The justification is formal when the offered reason for acting in a certain manner is that act being a rule. The rule could be a law, a religious requirement, or a custom, among others, but that is a secondary consideration.

The justification in a recommendation chain, in turn, can be a recommendation in another chain. For example, consider the following. "You should act that way, for it is the law."-"Go with the law, for following the law brings such and such benefits." The justification in the former chain

is formal, whereas the latter contains utilitarian justification. Conversely, a utilitarian justification could be a recommendation in another chain with formal justification: "You should do such and such, for it brings those benefits."-"You should seek those benefits, for God wants you to." This is to stress that it is not the content of the recommendation, but nature of the justification, that is taken into account in this coding. Thus, Hasan Kafi makes a utilitarian argument when he recommends that rulers follow the sharia for it brings victory in the battle.

Giving prominence to justification, not to the content of recommendation, has an extra benefit in the sub-category of religion: It is always contested what constitutes a religious course of action, and based on the same religious sources, people may, and did, come up with wildly different recommendations for appropriate course of behavior in all religions, including Islam. For example, if we were following a content-based approach, Hasan Kafi's recommendation that rulers observe the five daily prayers[9] would be safe to code as a religious recommendation, whereas doing the same with the recommendation of forcing idle people into one of four classes, which he attributes to "Muslim wise men"[10], is debatable and creates coding problems which could only be overcome by a pre-prepared list of 'Islamic requirements'. Coding justifications, not the recommendations, on the other hand, allows one to work with an empty basket of what constitutes religious requirements, without subscribing to any particular understanding of Islam. Same reasoning also applies to legal and traditional categories; we can code legal and traditional justification without knowing much about the actual content of the Ottoman laws or traditions[11].

Recommendation Chains as Text-analytical Tools

Recommendation chains could be used as text-analytical tools in two ways: First would be to seek meta-chains of recommendations, where individual rings lead to another, finally reaching an ultimate justification, which is not justified by reference to anything else. One or more such ultimate justifications could thus be reached. This would allow us to make a hierarchical evaluation between individual justifications in a meta-chain, and accord them a value in relation to their place in the chain. Another way to make use of recommendation chains would be to count instances of different categories of justifications, and make an overall assessment based on their relative weights, ignoring possible meta-chains. The former was not chosen for two reasons: First is the difficulty of making up meta-chains of recommendations, which would include a lot of human judgment based on partial evidence. Spotting individual chains, on the other hand, is much easier due to spatial clues. Second, although hierarchized meta-chains allow us to make an analysis qualitatively different from individual chain counts, it ignores valuable information at another level. If all the justifications in a text are utilitarian, which then are tied to a formal ultimate justification in one sentence, this would hardly constitute enough grounds for describing the text in question ultimately formal. The one-sentence ultimate formal justification could also be no more than lip-service.

Utilitarian and Formal Justifications in *Asafname* and *Usul al-Hikam*

In all, 270 recommendation chains were coded in *Usul al-Hikam* for 116 separate recommendations, and 106 chains in *Asafname* for 84 separate recommendations. In some of the chains, utilitarian and formal justifications were inseparable, which were double coded. This occurred when, for example, a religious source was cited in support of a recommendation, and the citation itself contained a utilitarian argument. Consider the following citation for the recommendation of consultation with others: "Hazret-i Süleyman peygamber -selamu'llahi aleyh- oğlına hitab idüp dimiş: "Ey benüm oğulcuğum! Bir maslahatı kat' eyleme, ta ki bir sahib-i re'y olana danışmayınca. Zira kaçan ki bir işi müşavere ile işlesen mahzun olmazsın."" Here we have

religious, hence formal, justification for a prophet is cited in support of consultation, but the prophet himself makes a utilitarian argument saying "If you consult others, you won't regret".

Lutfi Paşa used formal arguments 49,1 percent of the time when he made a recommendation, whereas Hasan Kafi used them 11,1 percent of the time (see Table 3). Hasan Kafi offered more mixed justifications than Lutfi Paşa, using utilitarian and formal arguments together 17,4 percent of the time, as opposed to 6,6 percent. Purely consequentialist arguments made up 71,5 percent of all the justifications in *Usul al-Hikam*, and 44,5 percent of all the justifications in *Asafname*.

Table 3. Utilitarian vs. formal justifications

	Utilitarian	Formal	Util. & formal	Sum
Asafname	(44,3 %) 47	(49,1 %) 52	(6,6%) 7	106
Usul al-Hikam	(71,5 %) 193	(11,1 %) 30	(17,4%) 47	270

Overall, Hasan Kafi used less rule-based justifications than Lutfi Paşa did (28,5% to 55,7%), and about 60 percent of the time when he used one, he took care to support them with consequentialist arguments. Lutfi Paşa supported rule-based arguments with consequentialist ones about 12 percent of the time. Most of the formal justifications in *Usul al-Hikam* were religious ones (75 percent), whereas it was legal justifications that made up the greatest portion of the formal arguments in *Asafname* (81 percent).

Hasan Kafi seems to give more importance to utilitarian arguments when he makes a recommendation, and Lutfi Paşa seems to give about equal weight to formal and utilitarian arguments, with a slight preference for formal ones. If we were to take these books as representative works of their respective authors, and the authors as representative members of the scribal bureaucracy and the ulema, it would be possible to argue that ulema were more concerned with giving consequence-oriented, if general, advice than formal/religious ones, and scribal bureaucracy equally concerned with giving consequence-oriented and formal/legal advice, in a specific manner; at least when it comes to giving political advice. Without further studies covering more authors of the two classes, however, these conclusions are bound to remain speculations.

The conclusions are reasonably valid for the two books at hand, however, and at least a passing attempt at explaining them is due. Since Lutfi Paşa's approach is an even-handed one, and one that is expected of a bureaucrat with executive powers, I will focus on the –rather unexpectedly- low usage of formal/religious justification as opposed to utilitarian ones in *Usul al-Hikam*, written by a qadi and a muderris. –Inter-book differences are also expected, since the two authors are from different backgrounds. - Part of the explanation, it would seem at first look, has to do with the focus on justifications rather than content of the recommendations; if a coding based on recommendations were employed, leaving aside all the practical considerations, *Usul al-Hikam* would probably appear a lot more religious in character than the current coding suggests. That is, the majority of the recommendations are probably religious in character. This information, however, was already hinted at in the first part of the paper, where all the religious references were coded regardless of context; and it is, nevertheless, knowledge of a different sort which doesn't

form the pivotal focus of this study, and one which doesn't help much in explaining the lower usage of formal/religious justifications in making recommendations. If anything, a heavy load of religiosity in the content of the recommendations, if such were found to be the case, would make the sparse use of religious justification all the more curious.

Part of the explanation probably has to do with the way recommendation chains were used as analytical tools in this study. Instead of spotting laddered/hierarchized meta-chains of recommendations, and evaluating the books in light of the ultimate justifications that would appear, individual recommendation chains were counted and a quantitative analysis based on frequencies was preferred. It may well be the case that the utilitarian arguments, which make up 71,5 percent of all individual recommendation chains in *Usul al-Hikam*, are all placed in the lower ladders of meta-chains of recommendations, and lower ladders should be given less weight in evaluating the overall position of a text in terms of justifications used. The reason why this is not attempted is purely practical; coding meta-chains in a high-ambiguity textual environment –arising from the need to take the totality of the book into consideration at once- would have to involve making a lot of difficult decisions with little assistance from spatial clues. Even if we were to get a more balanced overall picture after a laddered analysis –which we may just as well not- we would still have to account for the numerical ascendancy of utilitarian arguments. This we may partially achieve by looking at a particular tension in the history of legal schools of thought in Islam.

"Istihsan is Nine-tenths of the Law"[12]

Standard accounts of the history of madhabs in Islam usually start with two "ancient schools", Muhammed Fadel notes. These are *ahl al-ra'y* and *ahl al-hadith*, the former making heavy use of informal practical reasoning, the latter of custom in legal argumentation. Prior to the arrival of al-Shafi'i and the birth of Usul al-Fiqh, jurists were classified according to how much weight they gave to practical reasoning relative to Prophet's custom. This division was overcome by al-Shafi'i's "great synthesis", so the conventional account goes, bringing Iraqis' and Hijazis' methods together, and finer distinctions were made between legal schools of later ages. Fadel argues that the "'conventional wisdom' in the study of Islamic legal history" may be attaching too much importance to the codification of usul. In particular "one is tempted to question whether al-Shafi'i's insistence on adherence to a rigorous method had the impact on legal argument that is commonly supposed. What if legal reasoning within the ancient schools continued by developing their own criteria for legitimate argumentation (...)?"[13]

The division between ancient schools does indeed seem to have persisted. Elaborate and rather heated discussions around whether qiyas, ijma, istihsan and istislah, among others, constitute valid bases for legal argumentation can be read as revolving around this basic question: Are there extra-textual bases for valid argumentation, and if so, what is the position of such arguments vis-à-vis text-based argument? The fineries of the debate over what constitutes valid qiyas, the most widely accepted "derivative source", are testimony to the burning nature of the question.

One such derivative source, istislah, and the related notion of maslaha -utility-, are especially relevant to our discussion of formal vs. utilitarian arguments. It seems that Hasan Kafi is a close follower of the Iraqi ancient school of *ra'y*. Imam Malik is reported to have said "Istihsan is nine-tenths of law." For Hasan Kafi, istislah is –literally- nine-tenths (88,9 %) of ethical argumentation.

Notes

1. Ahmet Uğur describes *Asafname* as "the perfect example and leader" of the genre in Turkish. Ahmet Uğur, *Osmanlı Siyasetnameleri* (İstanbul: Kültür ve Sanat Yayınları, 1985), 89.

According to Virginia H. Aksan, it is one of the two most often cited political writings of the 16th century, along with Mustafa Ali's Nushat al-Selatin. Virginia H. Aksan, "Ottoman political writing, 1768-1808," *International Journal of Middle East Studies* 25, no. 1 (1993): 54.

2. *Usul al-Hikam* is also considered, along with other works of this author, an important part of contemporary Bosnia's Ottoman/Muslim heritage. Muhammed Aruçi notes, in his article on Hasan Kafi Akhisari in TDV İslam Ansiklopedisi, that his tomb in Akhisar (Prusac) is a place of visit and a street in Sarajevo is named after Hasan Kafi. His works were incorporated in the state educational programs in Bosnia and Herzegovina in 1995.

3. The versions used for this study are transcriptions by Mübahat S. Kütükoğlu for *Asafname*, and Mehmet İpşirli for *Usul al-Hikam*. Both scholars made use of multiple copies of the originals in preparing their transcriptions. İpşirli also made some editing work in the form of moving words and phrases back and forth, for the Turkish version of the Usul al-Hikam is a piece-meal translation of the original Arabic version, done by Hasan Kafi himself. See Mübahat S. Kütükoğlu, *Lütfi Paşa Asafnamesi* (İstanbul: Edebiyat Fakültesi Basımevi, 1991) and Mehmet İpşirli, "Hasan Kafi el-Akhisari ve devlet düzenine ait eseri Usulü'l-Hikem Fi Nizami'l-Alem," *Tarih Enstitüsü Dergisi* 10-11 (1979-1980): 239-278.

4. Kütükoğlu, Asafname, 10-11.

5. İpşirli, Hasan Kafi, 254.

6. Uğur, Osmanlı Siyasetnameleri, 110.

7. İpşirli, Hasan Kafi, 242.

8. Thomas R. O'Connor, "Theories of moral or ethical behavior" Lecture Notes for Ethics in Criminal Justice, http://faculty.ncwc.edu/toconnor/415/415lect02.htm (9 February, 2006), The two (2) basic philosophical systems. For a similar classification of ethical theories, see William J. Talbott, PHIL 240: Introduction to Philosophical Ethics, http://faculty.washington.edu/wtalbott/phil240/phil240.htm (9 February, 2006).

9. İpşirli, Hasan Kafi, 262.

10. "... pes bu makule kimesne ehl-i İslam hükeması katunda kendi haline konmamak gerekdür, belki ibram olunup, cebr ile esnaf-ı erba'adan birine ilhak olunmak gerekdür." İpşirli, Hasan Kafi, 252.

11. The idea of separating justification from recommendation was used in other contexts too. Most significantly, John Rawls's notion of 'overlapping consensus' is based upon a distinction between shared principles and varying justifications for these principles based on different traditions. Even if the reasons for accepting certain principles are different, as long as there is consensus over the content of the principles, this could be a basis for living together in a society consisting of people with different fundamental moral views. The idea of overlapping consensus was also employed in the search for a universal basis for human rights. This study makes use of the distinction between justification and recommendation not to search for an overlapping consensus in recommendations, but in a rather contrary mission, to explicate differences in justification.

12. Imam Malik. Quoted in Muhammed Fadel, "'Istihsan is nine-tenths of the law': The puzzling relationship of usul to furu' in the Maliki madhhab," in *Studies in Islamic Legal Theory*, ed. Bernard G. Weiss, (Leiden: Brill, 2002), 161.

13. Fadel, Istihsan, 165.