

# Approaches to Music in Sharia

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Studies have demonstrated the therapeutic effects of listening to music. It can enhance creativity, improve visual attention, help maintain thriving levels of energy, change negative emotions to positive ones, induce sleep, and create a calm, stress-free environment. It has beneficial physiological effects too, such as lowering blood pressure and helping individuals manage physical pain.<sup>1</sup> Conversely, studies have shown that it can cause rapid changes in emotions leading to depression, become a form of escapism whereby an individual avoids problems they are facing, and impact the outlook of individuals and collectivities on account of lyrics that are sexually explicit and/or glorify violence, drugs and alcohol.<sup>2</sup>

The conceptualisation of music begins with the idea that music is organised sound. However, this conception is too broad, for it includes instances of organised sound that are not deemed to be music conventionally, such as human speech, the vocalisations of animals, and sounds made by machines.<sup>3</sup> A fitting definition of music is ‘sound produced vocally, instrumentally, or both, that is modulated in a way resulting in a harmonious and rhythmic auditory form that is expressive of emotion’.<sup>4</sup> In modern and medieval works of jurisprudence (*fiqh*), the Arabic terms denoting music are *mūsīqī* and/or *ghinā*. Although their referents can be regarded as different, that is, modulated sounds produced vocally for the latter and instrumentally for the former, they are dealt with concurrently in jurisprudential debates. This is because Muslim jurists justify their regulations on music by resorting to scriptural evidences pertaining to *ghinā*.

In light of this, what is the status of music in the Sharia? Is it permissible to listen to? This article delineates how the different hermeneutical frameworks in Shiite scholarship derive Sharia regulations on music from evidences that mention *ghinā*. It has three sections: the first outlines Mullā Muḥsin al-Fayḍ al-Kāshānī’s (d. 1680) utility of the Akhbārī framework in his derivation of the regulation of the permissibility of *ghinā*; the second presents Sayyid Abū Qāsim al-Khū’ī’s (d. 1992) utility of the orthodox Uṣūlī framework in his derivation of the regulation of the prohibition of *ghinā*; and the third summarises the utility of the Existential framework in the derivation of its regulation on music.

## The Akhbārī Approach of Fayḍ al-Kāshānī

In general, the Akhbārī framework maintains that knowledge of the Sharia is to be derived from the reports (*akhbār*) of the blessed Prophet and Imāms predominantly if not exclusively. Akhbārīs assert that all the reports of the Prophet and Imāms in the canonical works of Shiite *aḥādīth* (reports) are authentic and authoritative sources of Sharia knowledge.<sup>5</sup> Akhbārīs influenced the Shiite community by dominating its intellectual circles during the latter period

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<sup>1</sup> For a comprehensive list, see Wilson, Debra Rose. *The Benefits of Listening to Music* (2020), retrieved 22 November 2022, from <https://www.healthline.com/health/benefits-of-music#cognitive-benefits>.

<sup>2</sup> For instance, see Schafer, T. et al., What makes us like music? Determinants of music preference in *Psychology of Aesthetics, Creativity, and the Arts* 4:4 (2010) 223-34.

<sup>3</sup> Kania, Andrew., *The Philosophy of Music* (2012), retrieved 22 November 2022, from <https://plato.stanford.edu/archives/spr2014/entries/music/>.

<sup>4</sup> *Ibid.*

<sup>5</sup> See Kohlberg, Etan., Akhbārīya in *Encyclopaedia Iranica* 1:7 (1984) 716-18.

of the Safavid rule in the 17<sup>th</sup> century.<sup>6</sup> Mullā Muḥsin al-Fayḍ al-Kāshānī was an Akhbārī scholar during this period. He was a jurist, *ḥadīth* scholar, philosopher, and mystic. In the former period of his education, Kāshānī studied jurisprudence under Akhbārī scholars, such as Sayyid Mājīd al-Baḥrānī (d. 1618) and Shaykh Bahā' al-Dīn al-'Amilī (d. 1620-21), and in the latter he studied philosophy and mysticism under Mīr Damād (d. 1632) and Mullā Ṣadrā (d. 1640).<sup>7</sup>

Kāshānī's utility of the Akhbārī framework in deriving Sharia regulations is evident in his *ḥadīth*-cum-jurisprudential work entitled *Kitāb al-Wāfi*. In this work, Kāshānī collects, rearranges, and explains the reports of the Prophet and Imāms found in the four canonical works (*al-kutub al-arba'a*<sup>8</sup>) and supplements them with reports in circulation among his contemporaries. After evaluating the reports on *ghinā'*, Kāshānī argues that it is not possible to claim that there is a general and unrestricted prohibition regarding it. Instead, he maintains that the reports prohibiting *ghinā'*, which include listening to, teaching and learning, and earning from it, must be understood contextually. It is important to note that Kāshānī does not give the definition of *ghinā'* in *al-Wāfi*. This means he assumes the definition of *ghinā'* as understood either by his predecessors and contemporaries or conventionally, which was the modulation of sounds vocally.

Kāshānī observes that no regulation (*ḥukm*) for *ghinā'* is stipulated in the Sharia per se, and hence it is inaccurate to claim that it is prohibited outright. Rather, it is prohibited only if it is performed alongside other immoral actions, thereby encouraging them tacitly, and/or has immoral lyrical content.<sup>9</sup> This is because the prohibitive reports of the Imāms address the practice of *ghinā'* prevalent in gatherings during the Umayyad and Abbasid dynasties. Kāshānī explains that in such gatherings, males and females were interacting with each other freely and illicitly, falsehoods were being uttered frequently, and musical instruments were played in a manner that elicited indecent behaviour. He references the following reports to support this:

1. A person asked the fourth Imām, Ali b. Ḥusayn (d. 713), about purchasing a maid who had a good voice. The Imām replied: "There is no harm in purchasing her so long as she reminds you of Paradise."<sup>10</sup>
2. Abū Baṣīr reports that the Sixth Imām, Ja'far al-Ṣādiq (d. 765), said "There is no problem with the earning of a woman who sings at weddings."<sup>11</sup>
3. Reports of various Imāms praise good voices and recommend the recitation of the Qur'ān in such voices or in the style of *ghinā'*. (Kāshānī adds that the fourth Imām is reported to have recited the Qur'ān in a beautiful voice.)

Thus, Kāshānī concludes that *ghinā'* is not prohibited in the Sharia per se, for if it was, then the Imāms would not have permitted the aforementioned practices of *ghinā'*. Accordingly, he argues that conflicting reports in which the Imāms apparently prohibited *ghinā'* should be understood as referring to specific contexts in which *ghinā'* was accompanied with other actions that are prohibited in the Sharia.<sup>12</sup>

<sup>6</sup> Gleave, Robert., *Inevitable Doubt: Two Theories of Shī'ī Jurisprudence* (Leiden: Brill, 2000) 220-32.

<sup>7</sup> Algar, Hamid., Fayz-e Kasani, Molla Mohsen Mohammad in *Encyclopaedia Iranica* 4:5 (2010) 452-4.

<sup>8</sup> These include *Al-Kāfi* by Muḥammad ibn Ya'qūb al-Kulaynī (d. 329); *Man lā Yaḥḍuruh al-faqīh* by Shaykh al-Ṣudūq (d. 381); *Tahdhīb al-Aḥkām* by Shaykh Ṭūsī (d. 460); and *Al-Istibṣār* by Shaykh Ṭūsī.

<sup>9</sup> Kāshānī, Mullā Muḥsin al-Fayḍ., *Kitāb al-Wāfi* (Qum: Atar Atrat, 2008) 17: 218.

<sup>10</sup> *Ibid.*, 217.

<sup>11</sup> *Ibid.*, 206.

<sup>12</sup> For Kāshānī's comprehensive discussion on music see Kāshānī, *Kitāb al-Wāfi*, 17:205-223.

Since Kāshānī does not define *ghinā'* in *al-Wāfī*, one may be inclined to assume that his conclusion on the lack of its prohibition in the Sharia refers to modulated sounds produced vocally and not instrumentally; this is because his reasoning that *ghinā'* was prohibited by the Imāms on account of the nature of the gatherings in which it was performed, includes, among other illicit activities, the playing of musical instruments. Thus, one may conclude that Kāshānī merely deemed *ghinā'* (qua the production of modulated sound vocally) to be permissible and not the playing of musical instruments, and hence it is akin to the illicit mixing between genders and listening to false speech. However, this is contradicted by Kāshānī's student, Sayyid Ni'mat Allah Jazā'irī (d. 1700-1), who stated that the former permitted and encouraged him to listen to musical instruments.<sup>13</sup> Thus, it seems that Kāshānī did not deem the playing of musical instruments to be impermissible in essence outside corrupt gatherings.

### The Uṣūlī Approach of Abū Qāsim al-Khū'ī

Sayyid Abū Qāsim al-Khū'ī was a pre-eminent jurist. He belonged to the Shiite Uṣūlī school of legal hermeneutics. The Uṣūlī framework of deriving Sharia regulations differs from the Akhbārī in that the derivation of Sharia knowledge is not restricted to the reports of the Prophet and Imāms but includes any evidence that is proven to be authoritative (*hujja*). As such, the sources of evidence include the Qur'ān, the Tradition of the Prophet (*sunna*) – the details of which are extrapolated from the reports of the Imāms, the consensus (*ijmā'*) of Shiite scholars, and reason (*'aql*). Although Uṣūlīs accept the authoritativeness of the reports of the Prophet and Imāms generally, they do not deem all the reports attributed to them to be authentic merely by virtue of being included in the canonical works. The authenticity of each report must be ascertained before it can be utilised in the derivation of Sharia regulations.

In *Miṣbāḥ al-Fiqāha*, Khū'ī begins his discussion on *ghinā'* by stating that in contrast to the Sunnī schools of jurisprudence, Shiite jurists do not doubt the prohibition of *ghinā'* generally. Khū'ī references *Mustanad al-Shī'a fī aḥkām al-Sharī'a* of his predecessor, Muḥammad Maḥdī al-Narāqī (d. 1829), asserting that there is consensus (*ijmā'*) amongst Shiite jurists that *ghinā'* is prohibited in the Sharia, and that its prohibition is a necessary feature of the sect (*darūriyyāt al-madhhab*). However, Khū'ī maintains that the consensus is not religiously binding (*ta'abudī*)<sup>14</sup> because it does not justify the prohibition of *ghinā'* in itself but merely relays that jurists preferred some scriptural sources (i.e. Qur'ānic verses and reports of the Prophet and Imāms) over others. Therefore, Khū'ī evaluates the scriptural sources themselves to prove the prohibition of *ghinā'*. He commences with the following verses of the Qur'ān:

1. "... So avoid the uncleanness of idols and false speech (*qawl al-zūr*)."<sup>15</sup>
2. "And of the people is he who buys amusement of speech (*lahw al-ḥadīth*) to mislead [others] from the way of Allah..."<sup>16</sup>
3. "And they who turn away from ill speech (*'an al-laghwa mu'riḍūn*)."<sup>17</sup>

<sup>13</sup> See Jazā'irī, Ni'mat Allah. *Kashf al-Asrār fī Sharḥ al-Iṣṭibār*, 3 vols. (Qum: Mu'assasat Dār al-Kitāb, 1990) 1:59-66.

<sup>14</sup> See Khū'ī, Sayed., *Miṣbāḥ al-Fiqāha* (Qum: Maktaba al-Dawārī, 1957) 1:477.

<sup>15</sup> Qur'ān 22:30.

<sup>16</sup> Qur'ān 31:6.

<sup>17</sup> Qur'ān 23:3.

4. “And those who bear not false witness (*lā yashhadūna al-zūr*) and when they pass by vain talk, pass with dignity.”<sup>18</sup>

Khū’ī maintains that there are numerous reports of the Imāms asserting that the Qur’ānic notions of “false speech,” “amusement of speech,” “ill speech,” and “false witness” refer to *ghinā’*.<sup>19</sup> For instance, he cites the following narration in a footnote:

Abū Baṣīr said: “I asked Imām al-Ṣādiq about the revelation from God [which says] ‘avoid false speech’. The Imām said, ‘This [refers] to *ghinā’*’.”<sup>20</sup>

Despite the numerosity of such reports, Khū’ī concludes that the majority cannot be relied upon because of the possibility of fabrication due to the presence of weak (*da‘īf*) narrators in their respective chains of narration.<sup>21</sup> The only report that can be deemed reliable is the aforementioned narration of Abū Baṣīr.<sup>22</sup> Despite Khū’ī’s assertion of the authenticity of just a single report, he concludes that the sheer number of reports – all of which are weak barring one – is indicative of the fact that the Imāms considered *ghinā’* to be an extension of the aforementioned Qur’ānic notions.<sup>23</sup> Thus, Khū’ī formulates the following syllogism to conclude on the prohibition of *ghinā’*:

**Major premise:** the Qur’ān prohibits “false speech,” “amusement of speech,” “ill speech,” and “false witness” generally.

**Minor premise:** the reports of the Imāms specify *ghinā’* as an extension of the general Qur’ānic prohibition of “false speech,” “amusement of speech,” “ill speech,” and “false witness.”

**Conclusion:** Therefore, *ghinā’* is prohibited.

In addition to the prohibition of *ghinā’*, Khū’ī cites several reports of the Imāms signifying the impermissibility and negative effects of partaking in anything associated with *ghinā’*: it is forbidden to learn, teach, or earn by it; it causes hypocrisy, poverty, hardening of the heart, and immodesty; it is a milder form of adultery; it removes blessings and invites tribulations; anyone engaging in music will be raised blind, deaf, and dumb on the Day of Reckoning; anyone playing musical instruments in their house for forty days acquires the displeasure of God, and they will die as sinners who will be led to the Hellfire, if they die during this period; and music is the worst and evillest of that which God has created, and molten metal will be poured into the ears of anyone who has listened to it in the Hereafter.<sup>24</sup> Khū’ī states that most of these reports cannot be relied upon either, but due to the reliability of some of them, it can be concluded that *ghinā’* is prohibited in the Sharia.<sup>25</sup>

In a subsection entitled, “the opinion of Qāsānī”, Khū’ī addresses the verdict of Kāshānī (which was that *ghinā’* is not prohibited in the Sharia per se based on the contextualisation of

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<sup>18</sup> Qur’ān 25:72.

<sup>19</sup> Khū’ī, *Miṣbāḥ*, 478.

<sup>20</sup> *Ibid.*, 477.

<sup>21</sup> *Ibid.*, 479.

<sup>22</sup> *Ibid.*

<sup>23</sup> *Ibid.*

<sup>24</sup> *Ibid.*, 480.

<sup>25</sup> *Ibid.*

the reports of the Imāms).<sup>26</sup> As discussed, Kāshānī argued that the Imāms only prohibited partaking in *ghinā'* (that is, listening to and teaching it) because it was practiced in gatherings where males and females mixed freely, falsehoods were uttered, and musical instruments played. In response, Khū'ī asserts that if the prohibition of *ghinā'* was contingent upon the context in which it was practiced, then reports prohibiting *ghinā'* are futile. This is because gatherings or contexts in which males and females mix freely and falsehoods are uttered are prohibited independently of *ghinā'* in the Sharia sources. Thus, he argues that reports prohibiting *ghinā'* must be read in an unrestricted manner, whereby they are understood to be prohibiting *ghinā'* per se and not just *ghinā'* performed in specific gatherings.<sup>27</sup> Khū'ī evaluates the aforementioned evidences that Kāshānī cited in support of his contextual reading as follows:

1. The report of the fourth Imām permitting the purchasing of a maid with a beautiful or melodious voice cannot be relied upon because its transmission is weak, and it does not address whether *ghinā'* is permitted or prohibited; it merely discloses the permissibility of buying a maid with a beautiful voice.<sup>28</sup>
2. The report of the sixth Imām signifying that there is no problem with the earning of a woman who sings at weddings merely stipulates an exception to the general prohibition of *ghinā'*. Thus, at most this report permits *ghinā'* at weddings only.<sup>29</sup>
3. Reports encouraging the recitation of the Qur'ān with a beautiful or melodious voice are not referring to *ghinā'*, for there is no semantic equivalence between the latter and 'a beautiful voice'. Furthermore, all such reports must be rejected, for they conform to the juristic opinions of Sunnī jurists.<sup>30</sup> (This is based on a rule delineated in the chapter of resolving conflicts between evidences, which is that in cases where two reports of the Imām conflict, jurists are to reject the report that is in conformity with the opinion of Sunnī jurists. The rationale is that the infallible Imām cannot issue conflicting Sharia regulations, according to Shiite doctrine, except in situations warranting dissimulation (*taqiyya*). Thus, reports permitting the recitation of the Qur'ān in a melodious voice should be assumed to have been issued when the Imām was in the state of dissimulation.)

After criticising Kāshānī's reading of the evidences, Khū'ī cites the following report of the sixth Imām as the only evidence in support of former's opinion:

Ali b. Ja'far asked Imām Ja'far al-Ṣādiq about the permissibility of *ghinā'* on the celebratory days of *'īd al-fitr*, *'īd al-aḍḥā*, and other occasions of joy. The Imām replied: "There is no problem so long as no sin is committed on account of it."<sup>31</sup>

Khū'ī points out that this report has a weak chain of transmission because one of its transmitters is unknown (*majhūl*);<sup>32</sup> however, he does find an authentic (*ṣaḥīḥ*) version of the report that is similar in signification:

<sup>26</sup> Note that Khū'ī refers to Kāshānī as Qāsānī. See *ibid.*, 481.

<sup>27</sup> *Ibid.*, 482.

<sup>28</sup> *Ibid.*

<sup>29</sup> *Ibid.*, 482-483.

<sup>30</sup> *Ibid.*, 483.

<sup>31</sup> *Ibid.*

<sup>32</sup> *Ibid.*

... The Imām replied, “There is no problem with it [i.e., the permissibility of *ghinā’* during celebratory occasions] so long as there is no blowing [or playing] of a flute (*mā lam yuzmar bi-hi*).”<sup>33</sup>

As opposed to understanding the expression, “*mā lam yuzmar bi-hi*”, in the report as signifying the reprehensibility of playing the flute exclusively, Khū’ī understands it as signifying the reprehensibility of making any sound or melody, including the modulation of voice, that “is produced via a flute and [resembles] sounds produced to spur dancing [and] which is akin to the melodies of the people of immoral cultures.”<sup>34</sup>

Khū’ī acknowledges that the notion of *ghinā’* discussed by the Imāms is vague, and hence it is necessary to define it and delineate what constitutes its subject matter (*mawḍū’*). He states that Arabic linguists and jurists have given various definitions of *ghinā’*.<sup>35</sup> He is critical of jurists, both contemporary and past, who define it as any sound (that is, vocal, instrumental, or both) that causes a state of joy (*tarab*), for it includes modulated sounds that are permissible, such as the call of a person to another at a distance, the recitation of the Qur’ān, the Muslim prayer call (*adhān*), and the recitation of elegies (*rithā*) in honour of Imām Ḥusayn.<sup>36</sup> To this end, he cites reports emphasising the Qur’ān be read in a melodious voice and the Muslim prayer call be elongated, and delineates the fact that elegies have been recited with melodious voices in the honour of Imām Ḥusayn in the Shiite community since the times of the Imāms.<sup>37</sup> Thus, he defines *ghinā’* as follows:

1. Sounds (vocal, instrumental, or both) in the melodies or musical styles (*alḥān*) of deviant and immoral people (*ahl al-fusūq wa-l ma’āsī*) that cause a state of joy (*tarab*), such as songs played on the radio.<sup>38</sup> This includes the recitation of the Qur’ān, the Muslim prayer call, and elegies in honour of Imām Ḥusayn, in the melodies or musical styles resembling those of deviant and immoral people.
2. Sounds with content or lyrics that ethical people (*‘uqalā*) deem to be encouraging falsehood (*bāṭil*), such as belittling others, the consumption of alcohol, and the glorification of animalistic desires.<sup>39</sup>

After stating this, Khū’ī emphasises that the recitation of the Qur’ān, the prayer call, and elegies honouring Imām Ḥusayn, are not extensions of *ghinā’*.<sup>40</sup> He states:

In summary, there is no doubt that sound (*ṣawt*) influences the soul. If it is used to create a state of sorrow, move to tears, and remind of Paradise and Hell, vis-à-vis the recitation of the Qur’an, then it is not considered *ghinā’* whereby it is prohibited; rather, its reciter will be rewarded by God. If [on the other hand] it is used for the purpose of dancing (*raqṣ*) and amusement (*talāhhī*), then it is considered *ghinā’* and *simā’* (singing) and deemed prohibited as per the widely recurrent reports. Allah knows best.<sup>41</sup>

<sup>33</sup> *Ibid.*

<sup>34</sup> *Ibid.*, 484.

<sup>35</sup> *Ibid.*

<sup>36</sup> *Ibid.*, 485.

<sup>37</sup> *Ibid.*, 485-87.

<sup>38</sup> *Ibid.*, 488-89.

<sup>39</sup> *Ibid.*, 487-88.

<sup>40</sup> *Ibid.*, 490-496.

<sup>41</sup> *Ibid.*, 489.

Therefore, Khū'ī defines *ghinā'* as (a) sounds modulated vocally, instrumentally, or both, in the melodies or musical styles of deviant and immoral people, and/or (b) melodious compositions containing lyrical content encouraging falsehood. Accordingly, his ruling is that all such sounds and melodious compositions are instances of *ghinā'* and hence prohibited in the Sharia; and thus, those sounds and melodious compositions that do not fall within this definition are not instances of *ghinā'* and hence are permissible in the Sharia. The only exception to this is the permissibility of *ghinā'* during weddings, as per the report of the sixth Imām, as long as males and females are not mixing freely.<sup>42</sup>

### Summary Thus Far and The Definition of *Ghinā'*

After delineating the views of both Kāshānī and Khū'ī, it is clear that *ghinā'* is modulated sound, vocally, instrumentally, or both, and as such it is akin to 'music' defined today. Kāshānī's understanding of *ghinā'* seems to be synonymous with the understanding of music today, and hence it can be concluded that he would consider music to be permissible, all things being equal. Comparatively, Khū'ī understands *ghinā'* to be referring to the music of the people of immoral cultures and/or immoral melodious compositions specifically; hence, it can be concluded that he considered the music of such people, irrespective of whether its content is moral, to be prohibited, and all other music to be permitted provided its lyrical content is not immoral.

### The Existential Approach

The ontological nature of this cosmos is evolutionary flux and growth, which means that it and everything in it is subject to change and growth. This includes humans, who have the potential to grow and evolve rationally, morally, and spiritually, both individually and collectively, in addition to physically. However, the actualisation of their rational, moral, and spiritual potential is contingent upon ethical and God-centred living. Accordingly, Sharia regulations have been issued via prophets to facilitate this growth and evolution. A consequence of the ontological nature of evolutionary flux and growth is change in the values of the relations of things to humans, which are the bases of Sharia regulations according to both the Existential and Shiite Uṣūlī frameworks. In other words, Sharia regulations are formulated on the basis of the values of benefit and/or harm of the relations of things to humans in order to facilitate their growth, but since the values of the relations of things to humans are subject to change, so are Sharia regulations. It should be noted that the values of the relations of things to humans are discernible by the faculty of reason as per the Existential Framework. In brief, existential flux and growth necessitates that regulations that were optimal initially in facilitating the rational, moral, and spiritual growth of humans with particular aptitudes in particular places and/or periods of time will be sub-optimal for the growth of humans with different or evolved aptitudes in other places and/or periods of time. Consequently, sub-optimal regulations will require modification to become optimal once again.

To formulate Sharia regulations that are optimal in facilitating the growth of humans of a specific region and/or era, the Existential framework distinguishes between the 'essences' and 'forms' of regulations derived from the sources of the Sharia. The 'essence' of any given regulation consists of fundamental moral and spiritual values (which are the 'efficient' and 'final' causes of its 'form'), and hence they are applicable with respect to humans in all

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<sup>42</sup> *Ibid.*, 491.

existential contexts. In contrast, the ‘form’ of any given regulation is the specific injunction that is applicable to the existential context in and for which it was formulated and other similar existential contexts. (Note that -i- any given existential context is the ‘material’ cause of the regulation and includes the aptitudes, language, rationality, morality, spirituality, and culture of the people of a particular time and place; and -ii- the fundamental moral and spiritual values of regulations together with any given existential context constitute the ‘formal’ cause of regulations.) Indeed, the need to distinguish between the essence and form of Sharia regulations did not arise during the era of revelation and beyond because they were optimal and effective in facilitating human growth. Comparatively, existential contexts today, which are vastly different to the existential contexts of the revelatory era due to advancements in technology, research, socio-politics, and the collective growth of nobility and morality, demand the distinction between ‘essence’ and ‘form’; for many Sharia regulations that were optimal for other than current existential contexts do not express the fundamental moral and spiritual values that are necessary for human growth.

The method of deriving the essence, or the fundamental moral and spiritual values of growth, is based on the widely reported narration of the Prophet, known as *ḥadīth al-thaqalayn*:

I [Muḥammad] leave among you two important things; if you cling to them, you shall never be led astray after me. One of them is greater than the other; the [first is the] book of God [the Qur’ān], which is the rope stretched from heaven to earth; and [the second is] my Sunna or my progeny, the people of my house (*ahl al-bayt*).<sup>43</sup>

Thus, in the absence of the Prophet, guidance is guaranteed to those who follow the Qur’ān and the Prophetic Sunna (as per the family of the Prophet for Shiites). Hence, the Sharia can be derived from two sources: the Qur’ān and Sunna (which is the tradition of the Prophet as narrated by the Imāms), where the former is the major source and the latter, the minor. Accordingly, the Existential framework propounds that the ‘essences’ of Sharia regulative forms can be extrapolated from the Qur’ān primarily and the Sunna secondarily. It should be noted that the details of the Sunna are understood from the reports of the Prophet and Imāms, the vast majority of which classify as isolated reports (*al-akhbār al-āḥād*).<sup>44</sup> In view of existential flux and growth, the Existential framework maintains that the extrapolation of the ‘essences’ is not possible by means of the apparent significations (*ẓawāhir*) of the Qur’ān and reports alone; rather, it is contingent on understanding and analysing their apparent significations in light of the existential contexts in which they were originally relayed. Such contextual analyses of the apparent significations disclose how the Qur’ān and Prophet (and

<sup>43</sup> There are reports stating that the second thing is ‘my Sunna’ and others stating that it is ‘my family’. It is likely that the blessed Prophet said both on several occasions. For a comprehensive study of this report, see Samawi, Muhammad al-Tijani. *Ḥadīth al-Thaqalayn according to Shi’as*, retrieved 22 November 2022, from <https://www.al-islam.org/shiah-are-real-ahlul-sunnah-muhammad-al-tijani-al-samawi/hadith-al-thaqalayn-according-shias>; For a critical analysis of another version of this report, see Abdul Hussain, Arif and Walji, Riaz. *An Examination of the Authenticity and Sharia Status of the Third Segment of Ziyāra ‘Āshūra’ al-Mashhūra*, retrieved 6 February 2024, from <https://uploads.strikinglycdn.com/files/3ddfccd8-cf8f-475f-a71d-c39df06d02a0/Ziyarat%20Ashura.pdf>.

<sup>44</sup> Isolated reports are not deemed to be reliable in the Uṣūlī approach without scrutiny of their chains of narrators and content. This is undertaken to rule out the possibility of miscomprehension and fabrication. However, the method of *ḥadīth* criticism common among Uṣūlīs is *manḥāj al-wuthūq*, which is the method of personal satisfaction based on cumulative probabilities. For information on this method, see Abdul Hussain, Arif et al, *An Examination of the Authenticity and Sharia Status of the Third Segment of Ziyāra ‘Āshūra’ al-Mashhūra*. In contrast to this, the Existential approach analyses all reports that do not contradict the Qur’ān, the Islamic tenet of God-centricity, the continuously-transmitted, non-textually contingent Tradition, morality, reason, logic, the conventional knowledge of the natural and social sciences, and history, to extrapolate the ‘essences’ of the regulative forms of the Sharia.



Imāms) formulated regulations to facilitate the growth of their initial adherents. This in turn reveals the ‘essences’, whereby it is possible to formulate contextually optimal regulations for humans of differing existential contexts, including contemporary ones.<sup>45</sup>

Using the hermeneutical keys of ‘essence’ and ‘form’ as per the Existential framework, the following subsections re-evaluate Khū’ī’s arguments for the prohibition of *ghinā’*.

### *Contextual Analysis of the Verses of the Qur’ān*

The first verse Khū’ī refers to is, “... So avoid the uncleanness of idols and false speech (*qawl al-zūr*).”<sup>46</sup> According to the renowned exegetes of the Qur’ān, Muḥammad Ḥusayn Ṭabāṭabā’ī (d. 1981) and Abū ‘Alī al-Faḍl b. Ḥasan Ṭabarāsī (d. 1153), this verse was revealed regarding a group of people who joined the Prophet to perform the annual pilgrimage of *hajj*. During the various rituals of *hajj*, it became clear that this group were polytheists, as they chanted the names of idols instead of the name of God. It was in this context that the Prophet received this revelation warning people to “avoid false speech.” Based on this context, both Ṭabāṭabā’ī and Ṭabarāsī conclude that the verse prohibits idol worshipping and fallacious proclamations.<sup>47</sup> Thus, this verse is not addressing the issue of *ghinā’* or music per se, for it merely prohibits acts constituting “false speech” or fallacious proclamations irrespective of whether musicality is involved or not.

The second verse Khū’ī cites is, “And of the people is he who buys amusement of speech (*lahw al-ḥadīth*) to mislead [others] from the way of Allah...”<sup>48</sup> According to Ṭabarāsī, this verse was revealed in response to a person called Naḍar b. Ḥārith, who persuaded the people of Quraysh to stop listening to the Prophet and started promulgating the greatness of Persian emperors and their mythologies.<sup>49</sup> This verse too is not directed at *ghinā’* or music per se. It merely prohibits the acts of misleading others by means of “amusing speech” irrespective of whether musicality is involved or not.

The third verse Khū’ī references praises believers who “turn away from ill speech.”<sup>50</sup> Ṭabarāsī states that this verse was revealed at a time when the Prophet and his companions were being cursed by different groups of disbelievers. In response to the former’s forbearance, God praised the Prophet and his companions for “turning away from ill speech.”<sup>51</sup> Muḥammad b. Ḥasan Ṭūsī (d. 1067) in *Al-Tibyān al-Jāmi‘ l-‘Ulūm al-Qur’ān* points out that scholars

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<sup>45</sup> For more information on the Existential framework, see Abdhussain, Arif., *The Conflict between the Actual and Apparent Regulations*, retrieved 22 November 2022, from <http://www.shaykharif.com/blog/the-conflict-between-the-actual-and-apparent-regulations?categoryId=24615>; Abdhussain, Arif., *Islam and God Centricity: A Theological Basis for Human Liberation* (Birmingham: Sajjadiyya Press, 2017).

<sup>46</sup> Qur’ān 22:30.

<sup>47</sup> See Ṭabāṭabā’ī, Muḥammad Ḥusayn., *Tafsīr al-Mīzān fī Tafsīr al-Qur’ān*, retrieved 22 November 2022, from <https://www.altafsir.com/Tafasir.asp?tMadhNo=4&tTafsirNo=56&tSoraNo=22&tAyahNo=30&tDisplay=yes&Page=6&Size=1&LanguageId=1>; Ṭabarāsī, Abū ‘Alī al-Faḍl b. Ḥasan., *Majma‘ al-Bayān fī Tafsīr al-Qur’ān*, retrieved 22 November 2022, from <https://www.altafsir.com/Tafasir.asp?tMadhNo=4&tTafsirNo=3&tSoraNo=22&tAyahNo=30&tDisplay=yes&Page=5&Size=1&LanguageId=1>.

<sup>48</sup> Qur’ān 31:6.

<sup>49</sup> Ṭabarāsī, *Majma‘ al-Bayān fī Tafsīr al-Qur’ān*, retrieved 22 November 2022, from <https://www.altafsir.com/Tafasir.asp?tMadhNo=4&tTafsirNo=3&tSoraNo=31&tAyahNo=6&tDisplay=yes&UserProfile=0&LanguageId=1>.

<sup>50</sup> Qur’ān 23:3.

<sup>51</sup> Ṭabarāsī, *Majma‘ al-Bayān fī Tafsīr al-Qur’ān*, retrieved 22 November 2022, from <https://www.altafsir.com/Tafasir.asp?tMadhNo=4&tTafsirNo=3&tSoraNo=23&tAyahNo=3&tDisplay=yes&UserProfile=0&LanguageId=1>.

understand the term “ill speech” to mean wasteful talk that has no benefit, lying, or misdeeds.<sup>52</sup> Again, this verse is not directed at *ghināʾ* or music per se. At most, it signifies that God commends people who turn away from wasteful speech, lying, and misdeeds irrespective of whether musicality is involved or not. One may posit that the faithful’s engagement with *ghināʾ* or music is an extension of ‘wasteful speech’ and wasting time, for they could be using that time more productively. However, the assumption here is that all forms of *ghināʾ* or music are wasteful. Furthermore, even if one accepts the assumption, for argument’s sake, that *ghināʾ* or music is an extension of wastefulness, it raises the question of what level of wastefulness is prohibited by God essentially? This is because many actions of everyday life, such as watching television and scrolling through social media, may be considered wasteful. Does this mean that they are prohibited by God in themselves, that is, essentially? At times, it is natural and necessary for humans to engage in such acts. Accordingly, such acts classify as wasteful only when they distract humans from fulfilling their responsibilities and obligations. Therefore, if this verse is understood to signify the reprehensibility of all wasteful acts, then it does not refer to acts of everyday life, such as listening to music and watching television, per se, for they are not wasteful essentially (or in themselves); rather, it only includes them when they distract people from fulfilling their responsibilities and obligations.

In the final verse that Khūʾī mentions, God praises “those who do not bear false witness (*lā yashadūna al-zūr*) and, when they pass by vain talk, they pass with dignity.”<sup>53</sup> According to Ṭabarasī, this verse was revealed in praise of those who refrained from participating in the congregations of those who associated partners with God. Ṭabarasī states that *ghināʾ* was performed in such congregations usually.<sup>54</sup> Given this context, it is not possible to conclude that this verse signifies the prohibition of engaging in all gatherings in which *ghināʾ* or music is being performed or played; rather, it prohibits gatherings wherein people falsely associate partners with God irrespective of whether musicality is involved or not.

In light of the existential contexts of the abovementioned verses, it is clear that they signify the reprehensibility of actions that are associated with falsehood, deceptive, and distracting. Although such actions can be, and have been, accompanied with music, the Qurʾān does not classify music per se as a reprehensible act. Therefore, the regulation of the prohibition of music per se in the Sharia cannot be derived from the afore cited verses.

### *Contextual Analysis of the Tradition*

Both Khūʾī and Kāshānī acknowledge that the reports of the Imāms on *ghināʾ* are conflicting: some signify the permissibility of *ghināʾ*, whereas others signify its impermissibility. Khūʾī reconciles this conflict by asserting that reports signifying impermissibility are greater in number than those signifying permissibility, even though the majority of the former are not reliable.

In the Existential framework of formulating Sharia regulations on the basis of their essences, all reports are deemed worthy of consideration so long as they neither contradict the

<sup>52</sup> Tūsī, Muḥammad b. Ḥasan., *Al-Tibyān al-Jāmiʿ l-ʿUlūm al-Qurʾān*, retrieved 22 November 2022, from <https://www.altafsir.com/Tafasir.asp?tMadhNo=4&tTafsirNo=39&tSoraNo=23&tAyahNo=3&tDisplay=yes&UserProfile=0&LanguageId=1>.

<sup>53</sup> Qurʾān 25:72.

<sup>54</sup> Ṭabarasī, *Majmaʿ al-Bayān fī Tafsīr al-Qurʾān*, retrieved 22 November 2022, from <https://www.altafsir.com/Tafasir.asp?tMadhNo=4&tTafsirNo=39&tSoraNo=25&tAyahNo=72&tDisplay=yes&UserProfile=0&LanguageId=1>; also see, Ṭabāṭabāʾī, *Tafsīr al-Mizān*, retrieved 22 November 2022, from <https://www.altafsir.com/Tafasir.asp?tMadhNo=4&tTafsirNo=56&tSoraNo=25&tAyahNo=72&tDisplay=yes&Page=4&Size=1&LanguageId=1>.

Qur'ān nor contravene the Islamic tenet of God-centricity fundamentally.<sup>55</sup> It is evident that the two conflicting groups of reports on *ghinā'* do not contradict the Qur'ān, for the latter neither expresses its permissibility nor impermissibility;<sup>56</sup> and they do not contravene the Islamic tenet of God-centricity, for the latter can be conceived of as not being violated in both cases. Accordingly, both sets of reports are worthy of consideration and analysis. The extrapolation of the status of music in the Sharia as per the Existential framework is contingent upon understanding the apparent significations of both sets of reports in light of their existential context. Thus, the Existential framework credits Kāshānī's contextual analysis, its reconciliation of the conflicting reports, and the ensuing juristic verdict. By situating the reports in their existential context, Kāshānī understood that the referent of those signifying impermissibility was the performance of *ghinā'* in gatherings prevalent during the Umayyad and Abbasid dynasties specifically, wherein the free mixing of males and females and the utterance of falsehoods was the norm.

Thus, when the Sixth Imām informed Abū Baṣīr that the reference of “false speech” in the Qur'an is *ghinā'*, he did not mean *ghinā'* or music per se; rather, he meant ‘*ghinā'* performed in gatherings wherein the free mixing of males and females and the utterance of falsehoods was the norm’. The same is the case with reports mentioning the adverse effects of *ghinā'* – they refer to ‘*ghinā'* performed in gatherings wherein the free mixing of males and females and the utterance of falsehoods was the norm’. Undoubtedly, the Imāms were protecting their followers from the harm of such gatherings in which *ghinā'* or music was practiced. Kāshānī is correct that the (existential) context of the reports signifying the impermissibility of *ghinā'* is supported and corroborated by reports signifying its permissibility, such as reports permitting the purchasing of a maid with a beautiful voice, reports recommending the recitation of Qur'ān in a melodious or musical manner, and reports permitting the performance of *ghinā'* during weddings or joyous occasions. Therefore, such contextualisation of the reports of the Prophet and Imāms demonstrates that *ghinā'* or music per se was not the subject of the prohibition.

In contrast, Khū'ī maintained that Kāshānī was wrong in his conclusion that the prohibition did not refer to *ghinā'* or music per se but to ‘*ghinā'* performed in gatherings wherein the free mixing of males and females and the utterance of falsehoods was the norm’. Khū'ī's argument is that numerous reports prohibit such gatherings explicitly without mentioning *ghinā'*, which means that Kāshānī's contextual inference that the reports prohibiting *ghinā'* refer to such gatherings renders the Imām's prohibition futile because he already prohibited such gatherings explicitly; however, such futility cannot be attributed to the Imāms theologically and hence the Imām must have prohibited *ghinā'* per se. However, Khū'ī's criticism fails to consider the conventions of human communication. For instance, when a parent prohibits their children from going to a certain park because dangerous people convene there, they may say, “Don't go to the park.” The children, and any other rational person present, would not understand this prohibition to mean that going to parks per se is forbidden, but rather they would understand it to mean that going to that specific park is prohibited because of the dangers associated with it. This is because children and the rational people present know that the prohibition is context-laden, which is that the parents have warned them about dangerous people generally and yet allowed them to go to other parks. Khū'ī overlooked the fact that the Imāms qua humans were bound by and hence utilised such

<sup>55</sup> Note that reports should also not contradict and contravene the continuously-transmitted, non-textually contingent Tradition, morality, reason, logic, the conventional knowledge of the natural and social sciences, and history.

<sup>56</sup> It should be noted that the neutrality of the Qur'ān on any given issue is itself a factor favouring the extrapolation of the regulation of permissibility in the Existential framework. Accordingly, it gives preponderance to reports of permissibility generally. This precept will delineated in forthcoming articles and papers.

conventions of human communication. Therefore, although there are many reports prohibiting participation and engagement in such gatherings explicitly, this does not preclude the fact that the primary referent of the reports prohibiting *ghinā'* was such gatherings too, especially given that they were what *ghinā'* was mostly associated with and other reports permitted its practice in other contexts.

Khū'ī is also critical of reports encouraging the recitation of the Qur'ān in a melodious voice. He states that the Imāms issued such verdicts in the state of dissimulation due to the possibility of injury from the majority, non-Shiite Muslims. However, he does not provide any justification for the claim of dissimulation. Moreover, the claim that the Imāms were in the state of dissimulation, which is now a common argument in jurisprudence, is problematic generally, for it raises the theological problem as to whether it is even possible for the Imāms qua Imāms to issue inaccurate rulings in the state of dissimulation.<sup>57</sup>

The only exception Khū'ī makes is the performance of *ghinā'* at weddings, which he deems permissible as per reports exempting it specifically from the general prohibition of *ghinā'*. However, this position is problematic because if an act is prohibited in the Sharia per se, then it is harmful with respect to humans irrespective of context. According to Khū'ī, the Imāms considered *ghinā'* to be such an act, which would mean that it is prohibited in every conceivable context, and yet they permitted it during weddings! But the mere fact that *ghinā'* was permitted during weddings proves that it was not prohibited per se, and hence that it is not harmful with respect to humans in itself. Undoubtedly, it is possible to conceive of many contexts in which the participation and engagement with *ghinā'* is harmful, such as 'gatherings in which the free mixing of males and females and the utterance of falsehoods is the norm', and many other contexts in which it is not, such as at weddings or joyous occasions.

The final report cited by Khū'ī, which he deems reliable, states that there is no problem with *ghinā'* so long as it does not involve the playing of wind instruments. The apparent or conventional meaning of this report is that *ghinā'* is not prohibited per se, but that it is prohibited if it is accompanied with sounds produced by wind instruments. The most likely reason for this prohibition is that such instruments were utilised during forbidden gatherings. Based on this report, Khū'ī acknowledged that the Imāms understood *ghinā'* or music to be a designation that included both reprehensible and permissible types of sounds; and yet he ruled that *ghinā'* per se is prohibited in the Sharia despite admitting that the Imāms permitted certain type of music and prohibited other types.

It seems that both Khū'ī's definition of *ghinā'* as 'the melodies or musical styles of deviant and immoral people', and his verdict of its impermissibility, is motivated by two considerations: firstly, he did not want to deviate from the verdict of the majority of jurists, who regarded *ghinā'* as impermissible per se; and secondly, he wanted to ensure that the melodious recitation of the Qur'ān, Muslim prayer call, and elegies honouring Imām Ḥusayn were not considered extensions of *ghinā'*. However, the problem remains that if music is prohibited per se, then how could the Imāms deem some types permissible and others impermissible?

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As per the Existential framework, the major and minor sources of the Sharia, which are the Qur'ān and Tradition of the Prophet and Imāms, do not prohibit music in 'essence'. Rather, they prohibited all actions associated with falsehood, deception, distraction, and misdeeds, irrespective of whether musicality was involved or not. As such, the formulation or 'form' of

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<sup>57</sup> For instance, Hossein Modarressi states that the Sixth Imām was able to express conflicting opinions freely. See Modarressi, Hossein, *Text and Interpretation: Imām Ja'far al-Šādiq and His Legacy in Islamic Law* (Massachusetts: Harvard University Press, 2022) 244-246.

reports prohibiting music must be understood in the existential context in which they were issued. Today, if music, or a particular type of music, leads a person to falsehood and misdeeds or deceives and distracts them, then it, or that particular type, is prohibited for them; and hence if they partake in it, they would be defying the Sharia and stunting their growth towards godliness. On the other hand, if music has a beneficial or no discernible effect on a person, then it is not prohibited for them; and hence if they partake in it, they would not be defying the Sharia and stunting their growth towards godliness. It is important to note that many people do not know or realise the effects of different types of music on them. In such cases, they should rely on the findings of the scientists and experts in their particular existential context; consequently, if certain types of music or their qualities, such as volume and duration, are found to be detrimental psychologically and physiologically, then partaking in them is prohibited in the Sharia, and if certain types of music are found to be beneficial or neutral psychologically and physiologically, then partaking in them is not prohibited in the Sharia.

## Conclusion

The understanding of music in the Sharia depends on the approach taken in the derivation of its regulation. All three frameworks – the Akhbārī, Uṣūlī, and Existential – acknowledge that firstly, the Qur’ān does not address whether music is permissible or not directly, and secondly, it is the reports of the Imāms that do, albeit conflictingly.

Kāshānī, an Akhbārī jurist, resorts to what may be termed ‘a contextual reconciliation of the conflicting reports’. His conclusion is that music is not prohibited in the Sharia per se, that is, provided its lyrics do not promote falsehood and no forbidden activity is performed alongside or as a result of it. Incidentally, this seems to be the view of most Sunnī jurists.<sup>58</sup> In contrast, Khū’ī, an Uṣūlī jurist, reconciles the conflicting reports by scrutinising the reliability of their transmission followed by a conventional analysis of their content as per the Uṣūlī framework. His conclusion is that *ghinā’* is prohibited in the Sharia per se, the only exception being weddings, provided males and females do not mix freely.

The Existential framework reconciles the conflicting reports by means of the hermeneutical keys of ‘essence’ and ‘form’. Its conclusion is nuanced: if certain types of music are detrimental to a person rationally, morally, and/or spiritually, then partaking in those types of music is not permissible in the Sharia, even if the lyrical content of the music is acceptable; and if certain types of music are beneficial or neutral rationally, morally, and/or spiritually, then partaking in those types of music is permissible in the Sharia. Therefore, the regulations on music in the Sharia are dependent on the aptitudes, existential contexts, and conventions of individuals.

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<sup>58</sup> For instance, see Dar al-Ifta al-Missriyyah., *What is the ruling concerning Music?* retrieved 22 November 2022, from <https://www.dar-alifta.org/Foreign/ViewFatwa.aspx?ID=4866>.