A STUDY OF THE REASONS BEYOND THE DISPUTE BETWEEN JURISTS REGARDING THE RULING ON LEARNING THE PRINCIPLES OF JURISPRUDENCE

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ABSTRACT

Purpose: This research identified the meaning of "the principles of jurisprudence" as a description and name for a specific science. It also discussed the cause of the jurisprudence dispute.

Methods: To gather scientific material, I employed an inductive approach that involved examining books on Islamic jurisprudence, extracting relevant information, and arranging it appropriately. In the first section of this paper. In the second section, I mentioned the importance of studying the principles of jurisprudence, starting with resolving the conflict in the issue, followed by mentioning the opinions of scholars. The third section discussed the reasons for the dispute, which were limited to the methodologies of scholars and terminologies, resulting in a verbal disagreement. Finally, the conclusion was presented.

Results: The research findings highlight the significance of studying the principles of Islamic jurisprudence in comprehending the reasons for disagreements and their effects on various branches of Islamic jurisprudence. The role of terminologies and methodologies is emphasized as a crucial factor contributing to scholarly disagreements.

Conclusion: Verbal disagreements are shown to have a substantial influence on the reasons for disagreements.

Keywords: Jurists, learning the principles of jurisprudence, reasons beyond dispute, ruling.

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ESTUDO DAS RAZÕES ALÉM DA DISPUTA ENTRE JURISTAS EM TORNO DA DECISÃO SOBRE O APRENDIZADO DOS PRINCÍPIOS DA JURISPRUDÊNCIA

RESUMO

Propósito: Esta pesquisa identificou o significado de “os princípios da jurisprudência” como uma descrição e nome para uma ciência específica. Também discutiu a causa da disputa de jurisprudência.

Métodos: Para coletar material científico, empreguei uma abordagem indutiva que envolvia examinar livros sobre jurisprudência islâmica, extrair informações relevantes e organizar-as de forma adequada. Na primeira seção deste artigo, mencionei a importância de estudar os princípios da jurisprudência, começando pela resolução do conflito na questão, seguido pela menção das opiniões dos estudiosos. A terceira seção discutiu os motivos da disputa, que se limitavam às metodologias dos estudiosos e terminologias, resultando em um desacordo verbal. Por último, foi apresentada a conclusão.

Resultados: Os resultados da pesquisa destacam o significado do estudo dos princípios da jurisprudência islâmica na compreensão das razões para desentendimentos e seus efeitos em vários ramos da jurisprudência islâmica. O papel das terminologias e metodologias é enfatizado como um fator crucial que contribui para divergências acadêmicas.

Conclusão: As divergências verbais demonstram ter uma influência substancial sobre os motivos das divergências.


1 INTRODUCTION

Understanding the reasons behind disagreements is a crucial aspect of Islamic jurisprudence that scholars, Muftis, and judges must be knowledgeable about. They should understand the meanings and consequences of these disagreements and cannot be excused for not knowing them. Some scholars have even stated that a person cannot be considered a jurist until they comprehend the areas of disagreement, their causes, and their effects on the different branches of Islamic jurisprudence. As Al-Sabki pointed out, a jurist should not underestimate the importance of understanding strange aspects, deviant opinions, and disagreements. Relying solely on what one knows to issue fatwas can lead to the loss of jurisprudence. Without knowledge of the science of disagreement and methodology, a person cannot be considered a jurist. They will only be a confused transmitter of jurisprudence to others, without the ability to deduce a case from an existing one, make analogies between present and future cases, or link a witness to an absent one. Therefore, errors come quickly, mistakes pile up, and their understanding of jurisprudence remains limited (Al-Sabki, 1992). To shed light on the reasons behind the
disagreements among jurists regarding the ruling on studying the principles of Islamic jurisprudence, I have written this scientific paper titled A study of the reasons beyond the dispute between jurists regarding the ruling on learning the principles of jurisprudence.

1.1 RESEARCH QUESTIONS
The research problem revolves around the following points:
1. What is meaning of the dispute between jurists?
2. What are the opinions of scholars regarding the ruling on studying the principles of Islamic jurisprudence?
3. What are the reasons for the disagreement regarding the ruling on studying the principles of Islamic jurisprudence?

1.2 RESEARCH OBJECTIVES
1. To understand the meaning of dispute between jurists;
2. To clarify the opinions of scholars regarding the ruling on studying the principles of Islamic jurisprudence;
3. To explain the reason for the disagreement regarding the ruling on studying the principles of Islamic jurisprudence.

1.3 RESEARCH SIGNIFICANCE
The importance of the topic can be seen in the following:
1. Understanding the reasons for disagreements reveals the efforts of scholars in reaching the truth. These efforts are not based on personal desires but rather to demonstrate pure truth.
2. Examining the opinions of scholars and their evidence, as well as how they derive evidence to support their views on controversial issues.
3. The topic is significant because it is specialized in studying the reasons for disagreements in principles of Islamic jurisprudence.

2 LITERATURE REVIEW
2.1 MUSLIM USULIS DISAGREEMENT
It is necessary to define the science of disagreement as an art and a science that stands on its own with its books and writings. The previous definition is a conceptual and
factual definition of disagreement. As for the definition of the causes of disagreement related to the Mulsim Usulis, Al-Wadaan reported that when we associate disagreement with the science of principles of Islamic jurisprudence, the causes of disagreement refer to the methods and means that lead to disputes between scholars on Usulis issues. Understanding these disagreements and their underlying reasons requires knowledge of the origins and reasons behind them (Al-Wodayan, 1427AH). Others have said that the cause of disagreement is "the meaning for which the dispute arose in the matter (Al-Mughira, 1426 AH). All of the previous definitions require elaboration and expansion, and they are essentially a diagnosis and description of the cause of disagreement.

All previous definitions are subject to length, and in reality they are nothing more than a diagnosis and description of the cause of the disagreement. In my opinion, a suitable definition for the causes of Usulis and jurisprudential disagreement, after realizing that the cause of disagreement is part of the science of disagreement, is what is known as the subject of dispute between Mulsim Usulis and subsidiary issues, and the sources that scholars have relied on in their opinions. Therefore, I say that the definition of the cause of Mulsim Usulis disagreement is what is known as the subject of dispute in Usulis issues and the sources that scholars have relied on in their opinions.

2.1.1 Usul al-Fiqh (Principles of Islamic Jurisprudence)

In their definitions of Usul al-Fiqh, the Usulis have focused on two main approaches:

The linguistic definition, which is based on the linguistic meaning of the term.
The descriptive definition, which is based on the characteristics and functions of Usul al-Fiqh. Here are some of the most important definitions for each category:

2.1.2 Descriptive definition

Usul al-Fiqh has been defined in various methods. The scholars who are known for their understanding of the principles of Islamic jurisprudence in the descriptive sense include Ibn al-Hajib, Al-Baydawi, Al-Urmawi (1416 AH), Al-Mahbubi, (1377 AH), and Al-Shawkani (1999). Ibn Al-Hajib (1427 AH) defined Usul al-Fiqh as the science of the principles that are used to deduce subsidiary legal rulings from the detailed evidence. Al-Al-Baydawi (2000) defined it as the knowledge of the evidence of Fiqh in general, how to derive legal rulings from it, and the status of the one who benefits from it.
2.1.2.1 Nominal definition

Usul al-Fiqh has also been defined in various ways based on its linguistic meaning. The scholars who defined the principles of jurisprudence in the nominal sense: Judge Ibn Al-Fara, (1414 AH), Fakhr al-Din al-Razi, (1418 AH) al-Amidi, (2015) and Bin Mufleh (1999). Al-Ghazali (2016) defined Usul al-Fiqh descriptively as the evidence for these rulings and knowledge of their overall indications, not their details. Furthermore, Al-Kalwadhani, (1985) defined it as the evidence, methods, and levels of derivation that are used to deduce legal rulings. The chosen definition in this section is that of Al-Khudari Bak (1969) who defined Usul al-Fiqh as the principles used to deduce legal rulings from evidence.

2.2 RULING ON LEARNING THE ISLAMIC PRINCIPLES OF JURISPRUDENCE

2.2.1 Clearing the dispute area

Ibn Abdulbar said that scholars have unanimously agreed that there are obligatory knowledge that every individual must possess, and there are obligatory knowledge that are sufficient for a group if one of them possesses it. As for the types of knowledge, there are two: general knowledge, which is necessary for everyone and ignorance of which is not excusable. The second is specialized knowledge, which is specific to the branches of religious obligations and rulings, and other related matters (Al-Shafi'i, 1939). There is no disagreement among scholars that learning the principles of jurisprudence (usul al-fiqh) is an obligation of sufficiency for the general public, but not for the mujtahid. However, there is a disagreement among scholars regarding whether learning the principles of jurisprudence is an obligatory knowledge for everyone without distinguishing between the layperson and the mujtahid.

2.2.2 The scholars' doctrines of on the issue

Scholars have differed on the obligation of learning the principles of jurisprudence. There are three opinions regarding this matter:

**First doctrine:** The majority of scholars believe that learning the principles of jurisprudence is a collective duty (kifayah) similar to the obligation of learning fiqh. This is the opinion of most scholars (Al-Zafarani, 1999), including Al-Razi (1418) and Al-Isfahani, (1996).
Second doctrine: Some scholars believe that learning the principles of jurisprudence is an individual duty (fard 'ayn). This is attributed to Bin Mufleh (1999) who narrated it from Ibn 'Aqil, but it is not clear whether this opinion was related to the obligation of learning the principles of jurisprudence or to the knowledge of the rulings that apply to accountable individuals (Al-Saeed, 2007).

Third doctrine: Another opinion is that learning the principles of jurisprudence is an individual duty for those who want to engage in ijtihad, fatwa, and judging, but it is a collective duty for the general public. This opinion was held Al-Asmandi, (1992) in his book "Budh al-Nazar", and was also adopted by Al-Namiri (1977), Ibn Mufleh (1999), and Al-Mardawi (2000).

Ibn Taymiyyah (2001) narrated both opinions and did not give a clear preference for one over the other. He said that knowledge of the principles of jurisprudence is a collective duty, and it was also said that it is an individual duty for those who want to engage in ijtihad, fatwa, and judging.

In both theoretical and practical terms, there exists a third group of people known as the educated individuals. This group includes those who have acquired a certain level of knowledge and understanding that sets them apart from the general public, but who have not yet attained the status of a Mujtahid. A Mujtahid is one of the most knowledgeable scholars in the field of Islamic sciences, specialized in the fields of knowledge and acquisition (Al-Bayanuni, 2007).

3 METHODOLOGY

To gather scientific material, I employed an inductive approach that involved examining books on Islamic jurisprudence, extracting relevant information, and arranging it appropriately. To avoid making the text unnecessarily long, I chose not to provide biographical information for proper nouns. Instead, I followed the convention of using abbreviations as much as possible to reduce the overall length of the research.

4 RESULTS AND DISCUSSION

4.1 EVIDENCE OF SCHOLARS’ DOCTRINES ON THE ISSUE

4.1.1 Evidence of the first school of thought

1. By learning Usul al-Fiqh, one can recognize evidence, justification, validity, invalidity, methods of inference and derivation, attaching legal rulings to
evidence, Mujtahid and Ijtihad, Fatwa and Mufti, Mucta and Mucta'lahu, who is allowed to perform Ijtihad and issue Fatwa, who must follow Taqlid or is exempted from it, what is allowed or forbidden in this regard, and whoever is ignorant of it is like a person who speaks about Fiqh without knowledge and his duty is to follow Taqlid (Al-Namiri, 1977).

2. Learning Usul al-Fiqh is not obligatory for everyone to seek legal rulings based on detailed evidence. It is permissible to seek Fatwa, which indicates that acquiring this knowledge is not an individual duty but rather a collective duty (Al-Razi, 1418 AH).

4.1.2 Evidence of the second school of thought

Knowing Allah's rulings in the events that occur among the accountable is obligatory, and there is no way to achieve this except by learning Usul al-Fiqh. What cannot be achieved without it is an absolute obligation if it is possible for the accountable person to gain this knowledge (Al-Razi, 1418 AH).

4.1.3 Evidence of the third school of thought

In order to avoid punishment in the Hereafter, it is essential to have an understanding of Islamic legal rulings and to apply them correctly. This knowledge cannot be obtained without a solid understanding of Usul al-Fiqh. Therefore, knowledge of Usul al-Fiqh is necessary to avoid punishment in the Hereafter. It is obligatory for those who are authorized to issue Fatwa for the public to have this knowledge. For the general public, it is mandatory to follow the appointed Fatwa issuer because the desired goal of avoiding punishment in the Hereafter cannot be achieved without following their Fatwa (Al-Asmandi, 1992).

4.1.4 The reason for the disagreement on this issue

The reason for the disagreement on this issue is related to the general or specific nature of the legal rulings of Usul al-Fiqh, and this reason is related to terminology and methodologies. Those who believe that Usul al-Fiqh is only relevant to Mujtahids, Muftis, and judges, and not to the general public, may argue that learning Usul al-Fiqh is an individual duty. On the other hand, those who believe that Usul al-Fiqh is relevant to everyone, including Mujtahids, Muftis, judges, and the general public, may argue that
learning Usul al-Fiqh is a collective duty. Sheikh al-Islam Ibn Taymiyyah (2001) pointed to this reason and said that knowing the principles of jurisprudence is a sufficient obligation, and it was said: It is an individual duty for whoever wants to strive aijtihad. Some scholars have suggested that the disagreement on this issue is merely a verbal disagreement (Al-Futuhi, 1993; Al-Mardawi, 2000; Bin Mufleh, 1999). Since the statements of the first and second schools of thought do not refer to a specific group of people, they can be interpreted as applying to both Mujtahids, Muftis, and judges as an absolute duty, as well as to the general public as a communal obligation (Al-Rubaiea, 1995).

The third doctrine differentiates between the scholar and the common man, so he combines the sayings, and comes out of disagreement, which makes him have no truth. Ibn al-Qayyim, may God bless him and grant him peace, alluded to this reason and said that among the people are those who say that learning the principles of jurisprudence is a collective duty. Because it is the knowledge by which the evidence, its rank, and the sufficiency of inference are known. These sayings, even if they are closer to the truth than the first saying; it is not obligatory for everyone, nor at all times. Rather, it is obligatory for means in some times and for some people, in contrast to the obligation that is an individual duty, which is the science of faith and the laws of Islam. This is what is obligatory. As for what is other than it, if its knowledge depends on it, then it is under the category of what is not. The duty is completed only by it, and the duty is the amount that leads to it without the issues that are a virtue that knowledge and understanding of the discourse do not lack... Likewise, the principles of jurisprudence are the amount on which the understanding of the discourse depends from it, it is necessary to know it without the prescribed issues and research that are a virtue, so how can it be said: to learn it? In general, what is obligatory for a servant of knowledge and deeds, if he stops at any of them, then that thing is obligatory and obligatory according to the means, and it is known that this stopping varies according to people, times, tongues, and minds, so there is no preordained limit for it (Ibn Al-Qayyim, 2013).

5 CONCLUSION

To sum up, the research findings highlight the significance of studying the principles of Islamic jurisprudence in comprehending the reasons for disagreements and their effects on various branches of Islamic jurisprudence. The role of terminologies and
methodologies is emphasized as a crucial factor contributing to scholarly disagreements. Additionally, verbal disagreements are shown to have a substantial influence on the core issues being discussed. May Allah be the Most High and All-Knowing.

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REFERENCES


