

Islamic Jurisprudence Industry and Human Society Issues

By

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Abstract:

Fiqh al-Sharia is considered the link between the reality of people and the judgments of the wise Street according to the evidence on which it is based (the science of origins), through which the appropriate provisions are derived to be used in solving the facts developed in the cases and facts of people through the ages (fiqh al-nawazel), which made this Fiqh a valid industry to produce provisions and rules in line with the law of Allah Almighty and achieve the interests of worshippers in Therefore, this research tried to highlight the reasons for the continuation of this industry, reveal the elements of its success and validity, and its ability to respond to the requirements and needs of issues of the contemporary human society, and concluded that the Fiqh industry contributed to the formation of an integrated Islamic civilization in all its aspects, political, social, economic and cultural, which is the secret of its survival and continuity.

Key words: industry, origins, jurisprudence, calamities, issues, human society.

Introduction:

Islamic jurisprudence for the sake of science is a credible affair of the Prophet (peace and blessings of Allah be upon him) saying, 'Whoever gives back to Allah with goodness will understand him in religion' (Bukhari, 1422 AH, vol. 6, p. 217, no. 3116. Muslim, D.T., vol. 3, p. 1524, no. 1037), and above honourably (Vigo, 2000, vol. 1, p. 35), and its deepest usefulness, its origins are fixed, and its branches are tight, and by its rulings concerned jurists old and new in various aspects of life, so they controlled it with the law of Allah the Almighty, thus becoming a great jurisprudential workmanship, keeping pace and consciousness. With the issues of human society in every age, controlling the conditions of the people (Fiqh al-Nawazil), according to the principles and rules derived from the Book of Allah the Almighty and the Sunnah of His Prophet (peace and blessings of Allah be upon him) (the origins of jurisprudence), thus keeping abreast of the developments of all times and places of fatwa, judiciary and judgment, as evidenced by the abundant scientific and jurisprudential productions (in terms of quantity and quality) of the heritage of jurisprudential authorship entitled under

different headings (answers, fatwas, rulings, nawazel, documents, conditions, districts, Sharia politics, etc.), revealed to each generation a secret The stability and steadfastness of the jurisprudential industry to the changes of society in each era, in terms of the derivation and downloading of rulings.

Search Problem:

In order for the jurisprudential industry to regain its glory and historical place in precedence, leadership and authorship, it is necessary to revive contemporary jurisprudence and present it in a new style that combines the originality associated with the fixed Islamic Sharia reference, and the contemporary one that requires new solutions and treatments to keep pace with the facts and developments of the issues of human society in each era, so this research tries to answer the problem: to what extent can the Islamic jurisprudential industry keep pace with the issues of human society in each era according to the principles and constants of Islamic law ?

Importance of Research:

The importance of the research is to highlight the ability of the jurisprudential industry to marry authenticity and contemporaneity with its assets, rules and controls valid for the generation and derivation of jurisprudence in the light of the purposes of Islamic law and its consequences in achieving the will of the wise street, the interests of the people, meeting their renewed needs with a degree of flexibility, objectivity, and realism, and adherence to the legal constants with which the provisions of the jurisprudential industry revolve in the Islamic system.

Research Objectives:

This research seeks to:

1 :Introducing the jurisprudential industry in language and terminology, and stating that jurisprudence is a valid industry for every time and place.

2 :Showing the place of the jurisprudential industry in the jurisprudence of reality and giving the rule of the street in the new descendants, as the truest tool to express the reality of people's lives and the events and facts that they provide.

Research Methodology:

I walked in writing the topic according to the methodology of writing research, so I extrapolated as much as possible and traced what was written in the matter, arranged, revised, analyzed and discussed it to reach the most likely statement.

Previous studies and what research adds to them:

One of the most important studies I found in this context is 'The Making of Fatwa in Contemporary Issues' by Dr. Qutb Raissouni, which is an author consisting of eleven and five hundred pages, divided into an introduction, five chapters and then a conclusion, where the theoretical and downloadative rooting of the fatwa industry was carried out while highlighting its place in contemporary issues, but this author was only interested in the issue of fatwa making

in contemporary issues with neglect of the historical context and stages of its development, and how it contributed through the ages to the progress of Islamic civilization through Rules and regulations derived from jurisprudential origins that have been the reason for their continuity and resilience in the face of the changing issues of human society in every age .

The addition of this research is to adjust the terminological framework of the jurisprudential industry (fatwa, judgment and judiciary) and its relationship to the developments of the issues of human society in each era, while indicating the theoretical and practical foundations that made it an industry that responds to the requirements and needs of people at all times, places and situations.

Research Plan:

In view of the above, this topic can be divided into two axes as follows: the first in: the reality of the jurisprudential industry and includes two demands, the first in: the definition of the jurisprudential industry, the second in: the relationship of jurisprudence with industry, while the second axis discusses: the basic pillars of the jurisprudential industry and its response to the issues of human society, which in turn contains two demands, the first relates to the principles of jurisprudence and the issue of keeping pace with the issues of human society, and the second highlights the following: The jurisprudence of Nawazel responsive to the issues of human society and some of its contemporary applications.

a. First Theme: The Reality of the Fiqh Industry

If it usually needs the jurisprudential industry or becomes it for two reasons: the first to answer a question or questions that may not include new, but the question is in order to learn in worship, transactions, personal status, etc., and the second may occur by the jurist out of a sense of the need for renewal, in response to the developments of an accident, or challenges that require it at the level of individuals and communities (Ould al-Baraa, 2012, p. 5) In order for the law of Allah the Almighty to remain alive and sophisticated, they do not falter in the event of an emergency or a resumed descent (Raissouni, 2014, p. 5) .

For this reason, we devote this axis to two requirements: the first is known as the jurisprudential industry, and the second defines the relationship of jurisprudence to industry.

First Requirement: Definition of Fiqh Industry

To define the concept of jurisprudential industry, both industry and jurisprudence are first defined.

b. A. Industry Language and Idiom

Industry Language: 'Making: A workmanship that He makes by work, He is made, He made His work, and from it He said: 'Allah has made Him who has mastered everything' (Surat al-Anmal, verse: 88), Abu Ishaq said: Reading by the monument and it is permissible to raise, whoever erected it is the source because His saying Almighty: 'And you see the mountains count them rigid as they pass through the clouds' (Surat al-Anmal, verse: 88) is evidence of workmanship, as if he said: Allah has done it by doing, and whoever has read: God has done, in a sense: that is God's work... Industry: Manufacturer's craft, and his work: workmanship... Industry is as much as it can' (Ibn Manzar, 1993, vol. 8, pp. 208, 209).

In sum, the term industry is a language that is called and meant by that particular type of craft or work.

As for industry in the terminology: it has received several definitions, the most important of which is what Imam al-Subki concluded in his joy, where he defined it in his definition of science as everything related to the consideration of reasonableness for a required collection, and this is the text of what he said in this regard: 'Science may be called by a third term the industry as it says: the science of grammar is its industry, in which suspicion and certainty are included, and everything related to the consideration of reasonableness for a required collection is called science and is called industry' (Al-Subki, 1995, vol. 1, p. 30), which also means "a psychological queen from whom voluntary acts are issued without narration, and it is said: concerning how to work" (Al-Jurjani, 1983, p. 134).

According to these two concepts, industry is a property and a science employed for the sake of attaining what is required, or for achieving a purpose. Accordingly, the term industry, if added to others, was the aspect of the queen and the flag of that thing, so we say the industry of jurisprudence means the queen of jurisprudence, as it means the science of jurisprudence, and the queen and that science are employed in order to obtain what is required, or to achieve one of the purposes, which is to reach the ruling of the Sharia in the incident for which he is consulted or requests a judgment as will be stated (Raissouni, 2014, p. 21).

c. B. Fiqh Language and Idiom

Fiqh: The Language of Knowledge of the Thing and Understanding of it (Ibn Mandhar, 1993, vol. 13, p. 522), and discernment, and the predominance of the science of religion for its honor (Firouzabadi, History, p. 1250). Only the last term of the development of jurisprudence is defined as: 'Knowledge of practical Sharia rulings gained from their detailed evidence' (Tahar Ben Ashour, 1984, vol. 11, p. 62).

d. C. The meaning of the jurisprudential industry

The concepts of industry and jurisprudence are closely linked, combining the reality of skill mastery with cognitive design and realistic achievement in the service of man. Therefore, the manufacture of jurisprudence is one of the most important tools for working on the architecture of the earth and its succession, benefiting from its bounties, and exploiting its laws and advanced laws in the search for new inventions and discoveries, because jurisprudence that does not indicate obedience or forbid disobedience, or regulates behavior and addresses a crisis, or stimulates a common interest, is an inert jurisprudence that does not carry the flame of change in the years that God has set in life.

Among the jurists who mentioned the close relationship between industry and jurisprudence, we find Imam al-Subki in his book 'The Joy in Explaining the Curriculum' (1995, vol. 1, p. 30), who considered industry a term synonymous with science, as well as Imam Ibn Rushd al-Hafid in his brief book 'The Necessary in the Science of Origins' (1994, p. 37) when he spoke about the industry of jurisprudence and fundamentals, and saw that they occur from the use of laws and conditions that push the mind towards the right, such as knowledge of evidence and its sections.

Imam Ibn Khaldoun, in his introduction, elaborated on the concepts of industry and mentioned its fields, and affirmed that "industry is a queen in a practical and intellectual matter, and that in practice it is a tangible physical and physical conditions, so that its transmission by direct means to it and completes it, because directness in the physical conditions felt is the

fullest benefit, and the queen is a solid attribute that obtains from the use of that act and repeats it again and again until its image is consolidated. And on the proportion of the original is the queen. The transmission of the inspection is more complete than the transmission of news and science, as the queen who got the news. As good as the quality of education and the queen of the teacher, the learner's dexterity in industry and the attainment of his queen' (Ibn Khaldoun, 1988, p. 501). Imam Ibn Khaldoun passes the laws of industry on thought, and according to good and correct inputs the director is as well.

Thus, the jurisprudential industry considers jurisprudential answers narrated about applicants, whether it concerns a descent that occurred (jurisprudence of reality) or not (jurisprudence of expectation) and a referendum on it, it is the answer in which the rulings issued by the jurists are recounted in partial facts to facilitate the matter for minors after them, as the text of the fatwa is present ahead of its subject, whether it is contained in the form of a text, consensus or previous fatwa (Ould al-Baraa, 2012, p. 202).

From the above-mentioned use of the concept of industry and its introduction into jurisprudence, it opens doors for us from the products saved by Islamic jurisprudence, and this needs skilled jurists who improve the jurisprudential workmanship and turn texts into products and innovations that restore to jurisprudence its vital and pioneering role in serving man and advancing his society for the better.

e. Second Requirement: The Relationship of Fiqh to Industry

It may be problematic in the minds of some people to add jurisprudence to industry, because of the strangeness and rarity of use, and may see the replacement of industry with another term that is in harmony with the nature of Sharia science, and this problem is the first thing that Sheikh Abdullah bin Bayyah said when he labeled his book entitled 'The Industry of Fatwa and the Jurisprudence of Minorities' so that some of his colleagues instructed him to change it, saying: 'The concept of industry is not circulating in the field of fatwa, and the field of Sharia rulings, and therefore some of our colleagues have formed this title, instructing to change it to a term that suits the fatwa, It fits Sharia research" (Ben Bayeh, 2012, p. 11).

In fact, the term industry is more appropriate and appropriate in the fatwa than others, and is fulfilled by expressing its own specificity and compositional structure, and to indicate this in several ways:

Every maker of people does not dispense with the manifestation of five things that are the cause of it: the first: a substance that has a machine and a substance with which it works, the second: an image that he is inclined to do with it, the third: a movement that he uses to unify that image with matter, the fourth: a purpose that he sets up in his delusion for which he does what he does, and the fifth: a machine that he uses to move matter (Al-Tawhidi, 1988, vol. 9, p. 146). If we take the example to the industry of jurisprudence, we say that the article contains the matters of the respondent in his pension and his hostility, the picture: the interest that is hoped for from the referendum, the actor: the mufti who shows the problem of the rulings, the purpose: to bring goodness and ward off corruption, to guide the respondent in the paths of religiosity, and the machine: the tools of ijtihad and consideration .

The fatwa is an industry in terms of its need for know-how, work and training, as it is not a crude act, or a way of foothold, but is "the kind of complex issue that is accompanied by major and minor introductions" to guide the fruit, which is the appropriate Sharia ruling on the matter.

The Mufti changes his ability to make his fatwa, as he conceives the matter tightly after investigation and separation, then extracts its legitimate judgment from its source, and then descends on its place, and this download is more difficult and difficult than abstract deduction, as it achieves the public and private prerogative, appreciates the fate, and takes care of the purposes (Raissouni, 2014, pp. 32, 31, 30) .

In any case, the fatwa is a difficult industry that must have two things: the first is to seek evidence in relation to the prohibitions in which there is no provision or counterpart that deviates from it, and the second is the investigation and adaptation.

f. Second Theme: The Fundamental Pillars of the Fiqh Industry and its Response to the Issues of Human Society

The jurisprudential industry, with its origins and rules, has throughout history proven its ability to protect the interests of worshippers in the world and the hereafter, to achieve spiritual security for individuals and to stabilize their societal conditions, and this is from the mercy of Allah the Almighty in His creation to honor them with the message of Muhammadiyah 'and what we sent you is mercy for the worlds' (Surat al-Anbiya, verse: 107).

Thus, the jurisprudential industry was able to draw a fundamentalist approach based on scientific mental deduction, understanding of linguistic semantics, and realistic downloading of texts, which are blessed contributions that have transformed the texts of revelation limited in their words, and broad in their connotations, into many and precise legislation that absorbs the details of people's lives, and regulates their financial, social, political and other affairs, taking into account the balance and complementarity of interests, with realistic flexibility adapted to temporal and spatial variables.

Therefore, the most important elements of the application of the jurisprudential industry, on which the reality of the people of each age must be built, can be summarized as follows: first, the origins of jurisprudence that absorb the developments of the issues of human society (first requirement), and secondly, the jurisprudence of the Nawazel that is in line with the developments of the issues of human society (second requirement), which is intended to download the principles of jurisprudence on the infinite facts and narratives of the issues of human society, especially in our era characterized by complexity and intertwining as a result of scientific inventions and accelerated technical revolutions, and this approach is really considered an advanced revolution in the Fiqh industry.

g. The first requirement: the principles of jurisprudence in line with the developments of the issues of the human community

Islam is a doctrine and jurisprudence, a religion and a state, and this is what makes the life of a Muslim a coherent, harmonious and coherent unity in which there is no contradiction or contradiction, as the faith of the Muslim governs his interior, and Islamic jurisprudence governs his appearance and society.

Faith and jurisprudence are interconnected together to form an integrated approach that dominates the whole life of man, without feeling contradictory or conflicting, which makes human instinct in a state of consistency and moderation, so that the provisions of jurisprudence and the teachings of Islam do not clash with the nature, energies, potentials and aspirations of man, the Almighty said: "The instinct of Allah upon which people have fungus is not altered by God's creation of that valuable religion" ([Romans, verse: 30](#)) .

Therefore, this demand seeks to try to talk about the agreed and disputed principles of jurisprudence (b), and this difference is one of the secrets of God's mercy on His servants, making the jurisprudential industry valid for every time and place (a), and not affected by the variables of any age and conditions of human society.

The validity of the principles of jurisprudence for the issues of society at all times and places

The etymology of jurisprudence is defined as 'knowledge of the rules by which it reaches jurisprudence' ([al-Jurjani, 1983, p. 28](#)), and it is also defined as 'knowing the evidence of jurisprudence in general, how to benefit from it, and the condition of the beneficiary' ([al-Suyuti, 2004, p. 62](#)).

It is also the set of general rules that are used to derive sub-Sharia rulings from their detailed evidence, such as the saying of the Almighty: 'Pray and bring zakat' (Surat al-Baqarah, verse: 43) This is a detailed guide, from which a sub-Sharia provision is useful, namely 'the obligation to pray' and 'the obligation to give zakat', the way in which the first judgment benefits from the detailed guide, which is thus: establish prayer: an order, and the matter requires obligation, so the establishment of prayer is a duty. The second provision is 'Zakat Come': an order, and the order requires obligation, so giving zakat is a duty. We said, 'Pray is an order. They came to zakat order' This is understood from language and not from the etymology of jurisprudence. To say 'and it is obligatory' is a general rule that is necessary to understand the judgment, and even to understand the judgment is based on it. It is thus a fundamentalist jurisprudential rule ([Al-Ashqar, D.T., pp. 8, 7](#)).

The aim of the science of the origins of jurisprudence is to provide the mujtahids with the rules and laws of deduction, the need for which is greatest at present, as the general tendency to review and evaluate the jurisprudential heritage, and to a new jurisprudence, combining originality and flexibility, to meet the requirements of the issues and problems of society, and this will be achieved only if ijtihad takes a correct path, based on sound and solid foundations of full knowledge of the legal and linguistic sciences, of which this science comes at the forefront. The mere knowledge of the texts, or their memorization, is not qualified for ijtihad, or authorized to derive judgments ([Al-Ashqar, D.T., p. 19](#)).

Scholars have divided the topics of the etymology of jurisprudence and its investigations into many divisions, according to different rationales and considerations. Perhaps the most comprehensive and comprehensive of these divisions is their division into groups proportionate to the mabahith, united in subject matter and purpose, in four sections as follows:

Section I: Principles, which are not intended in particular, and often include the following topics: the section on the meaning of the evidence, the section on the limit of this science, the section on ratifications, the section on the four forms, the section on logical measurement and its sections, the principles of language, the section of judgments, sections of Sharia governance, these vary in deficiency and increase between one author and another.

Section II: Evidence investigations and the aspects of their significance to the judgments in their form and system, or their content and concept, and their necessity and necessity, or their reasonableness and meaning derived from them.

Section III: Weighting where speculative evidence may conflict, can only be inferred by weighting, which are methods of benefit.

- Section IV: Investigations of Ijtihad, Tradition and Fatwa, and Referendum (Al-Ashqar, D.T., pp. 18, 17).

Agreed and disputed assets and their relationship to the latest issues of the humanitarian community

h. Agreed Sharia Evidence:

The diligent person in which the research and consideration machine has been completed, who has obtained the conditions to be met, and who has sought to understand and consider the subject of the descent whose judgment and full perception he wants to seek, then remains only to search for the appropriate legal judgment for it.

The first way in which the search for judgment begins is to begin by presenting the descent to the legal texts of the Qur'an and Sunnah, in compliance with His saying: 'O ye who have believed, obey Allah and obey the Prophet and your guardians, if you dispute something that they have attributed to Allah and the Prophet if you believe in Allah and the Last Day' (Surat al-Nisaa, verse 59), and to the words of the Messenger of Allah (peace and blessings of Allah be upon him) as in the hadith of Mu'ath ibn Jabal (may Allah be pleased with him) (al-Zirkali, 2002, vol. 7, p. (258)-The famous one, because when the Prophet (peace and blessings of Allah be upon him) sent him to Yemen, he said, 'What do you judge?' He said, "In the Sunnah of the Messenger of Allah (peace and blessings of Allah be upon him), he said, 'If you don't find?' He said: "Strive for an opinion, he said: The Messenger of Allah (peace and blessings of Allah be upon him) was struck in the chest and said: 'Praise be to Allah who has approved the Messenger of Allah for what pleases the Messenger of Allah' (Abu Dawood, B.T., vol. 4, p. 215, no. 3592), and what is said about Ibn 'Abbas (may Allah be pleased with them) is that the Prophet (peace and blessings of Allah be upon him) when he addressed the people in the farewell argument said: 'O people, I have left in you what if you hold fast to Him, you will never be misled by the Book of God and the Sunnah of His Prophet' (Tirmidhi, 1998, vol. 6, p. 131, no. 3786). This is also evidenced by the actions and words of the companions, including: what was narrated about Abu Bakr, may Allah be pleased with him, is that if a dispute or a case occurs to him, he considers the Book of Allah and then in the Sunnah of the Prophet (peace and blessings of Allah be upon him). Umar looked at the Qur'an and the Sunnah – if an incident happened to him – if he did not find a consideration of Abu Bakr's district, if he did not find 'he invited the boys, consult them in order to sharpen their minds' (al-Qurtubi, 1994, vol. 1, p. 364, no. 505). His book (may Allah be pleased with him) to Abu Musa al-Ash'ari (may Allah have mercy on him) and his judge Shreih – may Allah have mercy on him – is another witness to their following this approach, and like him also narrates about Ibn Abbas, Ibn Mas'ud, Ibn 'Umar and others (Ibn 'Asim, 1994, vol. 2, pp. 747, 749. and al-Khatib al-Baghdadi, 2000, vol. 1, pp. 374, 381, 381. and al-Taymiyyah, 1997, pp. 200, 201).

It is confirmed to us from the foregoing that the first thing that the mujtahid begins with in his research of the rulings of the Nawazil, is to look and research the Book of Allah, then in the Sunnah of the Messenger of Allah (peace and blessings of Allah be upon him), then in the consensus, then in the measurement, and then he progresses in the rest of the evidence, rules and graduations according to what each mujtahid sees as an argument from them.

This arrangement in the way of deriving judgments is the agreed path of the ancestors, may Allah have mercy on them, where we find in their trace what Imam Shafi'i (may Allah have mercy on him) said: "Yes, the Qur'an and the Sunnah of the community shall judge them without any difference, and we say to this: We have judged by the truth in the outward and the subconscious. He rules by the Sunnah that has been narrated by the way of singularity, on which people do not gather and say: We have judged the truth in the outward, because it is possible to mistake who narrated the hadith. We judge unanimously and then the measurement, which is weaker than this, but it is a necessary status, because it does not solve the measurement and the news exists" ([Imam Shafi'i, 1940, p. 599](#)).

Each guide will be defined by some kind of abbreviation as follows:

The first proof is the 'book': which is the book of Allah the Almighty is the Holy Qur'an (Abu Mansour, 2001, vol. 9, p. 209), and it is said 'I read the book read and read, and from it is called the Qur'an. Abu Ubaydah said: "The Qur'an is named because it collects the suras and includes them. The Almighty said, 'We have to collect it and its Qur'an' (Surat al-Resurrection, verse 17), i.e., collect and read it, 'If we read it, follow its Qur'an' (Surat al-Resurrection, verse 18), i.e., read it. Ibn 'Abbas said, 'If we show it to you by reading, do what we have shown you' (al-Johari, 1987, vol. 1, p. 65). It is the origin of the origins and the end to which the eyes of the superintendent and the perceptions of the people of ijtihad end and not behind it is a goal, because it is the words of the truth praise him: 'And that to your Lord the Finished' [Surah al-Najm, verse: 42].

The Holy Qur'an, if we want to show its meaning, is too famous to be known, yet commentators and fundamentalists have taken care of its definition and mentioned various definitions to it, each of whom made sure that its definition is comprehensive and prohibitive, and among these definitions: 'It is the miraculous word of God that is home to Muhammad (peace and blessings of Allah be upon him), in the Arabic pronunciation, written in the Qur'an, worshipped by his recitation' (Al-Zuhaili, 1997, vol. 1, p. 13). and 'The words of Allah the house on Muhammad (peace and blessings of Allah be upon him), the miracle himself, worshipped by his recitation' ([al-Jizani, 2006, p. 102](#)).

The second guide 'Prophetic Sunnah': The Sunnah is meant by fundamentalists: 'What the Prophet (peace and blessings of Allah be upon him) issued other than the Qur'an in terms of saying, doing or deciding' (al-Sarkhsy, b.t., vol. 1, p. 113; al-Isnawi al-Shafi'i, 1999, p. 249; and Ibn Qudmah al-Maqdisi, 2002, vol. 1, p. 275; and Ibn al-Najjar, 1997, vol. 2, p. 159).

The third evidence is 'unanimity': it is the evidence that follows the text in force and protest, and it is in a rank that follows the texts and relies on them and relies on them as it is inconceivable that the word of the scholars of trusted imams should meet lustfully without legitimate evidence ([Ibn Rushd al-Hafid, History, 1994, p. 90](#). [Sayyid al-Din Ali, b.t., vol. 1, p. 195](#)).

Unanimous in the term fundamentalists is meant to be 'the agreement of the mujtahids of the Ummah of Muhammad (peace and blessings of Allah be upon him) on a legitimate rule' ([Ibn Rushd al-Hafid, History, 1994, p. 90](#)).

The fourth guide 'measurement': It is the fourth of the agreed evidence among the general scholars, and it follows the Qur'an, Sunnah and consensus in strength and rank. The analogy does not depart from the meaning of the Qur'an and Sunnah, unless it is stipulated in

the rulings, Allah the Almighty has indicated the signs indicative of it to derive them from the sites of the Qur'an and Sunnah by means of the measurement required to return what it does not stipulate to what it stipulates.

The analogy in the term fundamentalists has been defined by many definitions, which in fact is due to two directions that fundamentalists have sculpted in the definition of measurement: the first direction: which is to view measurement as an act of the mujtahid in the sense that there is no measurement without a mujtahid, and the owners of this trend define measurement as: 'attaching a branch to its origin with a common cause between them' or 'carrying information on information in proving or denying them a judgment by a matter that is unanimous between them' Attachment and pregnancy must have a holder or appendix which is the mujtahid (Taftazani, B.T., vol. 1, p. 262. Al-Ghazali, 1993, p. 280. Imam al-Haramain, 1997, vol. 2, p. 5. and al-Razi, 1997, vol. 5, p. 5. and al-Amidi, b.t., vol. 3, p. 186). The second trend is to view measurement as self-contained evidence, and the proponents of this trend define measurement as: 'the equality of a branch of an asset in the highest judgment' (al-Zarkashi, 1994, vol. 7, p. 8. and al-Shawkani, 1999, vol. 2, p. 90; and Taher Ben Ashour, 1984, vol. 2, p. 290).

All definitions often do not depart from these two directions, and perhaps it is right - and God knows best - to consider the existence of the mujtahid and that measurement is a work.

Disputed Sharia evidence

It was also presented in the previous paragraph that the evidence is the first reference for the Mujtahid's consideration of the facts and developments that he has revealed, and these evidences are either agreed upon by the scholars or different in them. It is worth identifying them and the ways of controlling and implementing them, and the abundance of evidence and assets to which the mujtahid refers opens wider horizons for him to consider, and unleashes him to graduate on more than one origin, which results in a path closer to right and a judgment that is more successful with the purposes of the Sharia and the interests of the people.

The evidence to which the beholder refers – which is not agreed upon – amounts to fifteen as counted by Imam al-Qarafi (may Allah have mercy on him), some of whom have argued that it is nineteen proofs, some of whom have delivered it to her mother at nineteen proofs and some of whom have brought her to Nef and forty proofs ([al-Zuhaili, 1986, vol. 2, p. 734](#)).

However, the maqam does not have the capacity to mention all the evidence, but is limited only to what we think is of greater importance and need in judging contemporary issues and emerging nuances in them, and can be limited to three evidences: the saying of the companions, the approval and the companionship.

The first evidence is 'The Saying of the Sahabi': The Companion is: 'Whoever meets the Prophet (peace and blessings of Allah be upon him) believes in him and dies on faith' (Al-Majdadi al-Barakti, 1986, p. 180; and bin Nasser al-Ghamdi, 2000, vol. 2, p. 227).

The audience of jurists and fundamentalists stipulated that he must have been narrated about him and that his companionship with the Prophet (peace and blessings of Allah be upon him) extended to customary use, since the companions do not use custom except in those who have been accompanied by many and have contacted their meeting, and this is not the case for

those who have met for an hour, walked with him steps and heard from him recently ([Al-Taymiyah, 1997, p. 292](#)).

The second guide is 'approbation': Fundamentalists have defined approbation by many definitions, some of which are of varying meaning based on the difference in intake and consideration of approbation, with their agreement to work on it and build on it, as evidenced by the books of the four schools of thought.

Perhaps the clearest of these definitions is what Imam Abu al-Hassan al-Karkhi (may Allah have mercy on him) said from the Hanafiya: 'Approbation is the reversal in a matter of such a thing as what he has judged in analogues to his disagreement for a face that is stronger' ([Sayyid al-Din Ali, p.t., vol. 4, p. 158](#)).

- Third Evidence: 'Companionship': In the fundamentalists' terminology: 'Judgment to prove something in the second time based on its proof in the first time' (al-Isnawi al-Shafi'i, 1999, p. 361), which is the definition of Imam Ibn al-Qayyim – may Allah have mercy on him – where he said: 'It is the sustainability of proving what was fixed or denying what was exiled' (Ibn al-Qayyim al-Jawziyah, 1991, vol. 1, p. 255), which is the closest definition of fundamentalists to health and statement of intent (al-Ghazali, 1993, p. 364. Bin Nasser Al-Ghamdi, 2000, vol. 2, p. 498. and Isfahani, 1986, vol. 3, p. 261).

The second requirement: the jurisprudence of the Nawazel that responds to the requirements of the issues of the human society and some of its contemporary applications

When the advanced jurists worked on ijtihad and devised appropriate rulings to be employed in solving emergency issues and issues, as a result it is a rich and diverse jurisprudential heritage of which we are proud in the present and the future, they have proved to present and future generations that Sharia is capable of facing circumstances in various environments and circumstances.

In order to clarify the role of the jurisprudence of Nawazel in keeping abreast of the developments of the issues of society and its response to them, this requirement is divided into two paragraphs: the first is devoted to the definition of the stages of consideration of the Nazil al-Faqih (a), and the second is to present an application of a contemporary jurisprudential descendant related to the commercial insurance contract (b).

Stages of Consideration of the Contemporary Fiqh Descent

Dealing with the jurisprudential descent in terms of jurisprudential adaptation, which is meant to 'fully visualize the fact and liberate the origin to which it belongs' (Al-Qahtani, 2000, vol. 1, p. 384), is one of the most important key steps to be followed when considering contemporary jurisprudential nuances. Adaptation has gained particular importance for contemporary jurists for several considerations:

First, contemporary traditions are distinguished by their modernity and lack of jurisprudence precedents, as well as complexity and intertwining;

Second, the recent eras, with their unparalleled civilizational development and social change, have undoubtedly been reflected in their facts and issues that need to be judged by the street, and given the scarcity of people of absolute ijtihad in our later times and the multitude of mujtahids of the sects, the need for jurisprudential adaptation has increased (Al-Qahtani, 2000, vol. 1, p. 397).

In this, Ibn Khaldun (may Allah have mercy on him) says, "When the doctrine of each imam became a special flag among the people of his sect and they had no way of ijtihad and measurement, they needed to theorize the issues in the appendix, and to differentiate them upon suspicion after relying on the established origins of the doctrine of their imam" ([Bakr, 1996, vol. 1, p. 270](#)).

In view of the importance of jurisprudential adaptation and the need of contemporary mujtahids for it, there was a need to define the controls of the process of jurisprudential adaptation, in order to achieve the most accurate and correct results, and to achieve the breadth, validity and application of the Sharia for all times and places in all circumstances and circumstances. These rules that should be taken into account when undertaking jurisprudential adaptation include:

-The jurisprudential adaptation should be based on a correct and significant consideration of the origins of the legislation: when the new incident is revealed by the mujtahid to judge it, he must adapt the descendant to the closest assets similar to it to then take the judgment of that origin.

-Make every effort to visualize the fact in the correct and complete perception: this officer is important to the superintendent, the mufti and the judge.

- The Mujtahid attained the jurisprudential queen in invoking issues and attaching them to the origins: the Mujtahid is involved in the sciences of the Qur'an and Sunnah, the difference and agreement of scholars, knowledge of language sciences, the science of the origins of jurisprudence, the purposes of Sharia and others (Mesfer al-Qahtani, 2000, vol. 1, p. 397, p. 400. and Raissouni, 2014, pp. 291-299).

Contemporary Fiqh Applications of Some Aspects in Financial Transactions: Commercial Insurance as a Model

The applicants of Muslim jurists did not know the insurance contract in its current form, as it is one of the incidents that did not exist before the fourteenth century AD and therefore nothing is mentioned about it in Islamic jurisprudence, except what is said about Ibn Abdeen, who died in 1252 AH, regarding marine insurance and his prohibition of insurance conducted by companies in it (Ibn Abdeen, 1992, vol. 4, p. 170).

Commercial insurance has been defined as: 'the obligation of one party to another to pay monetary compensation to him or his appointee, upon the realization of a probabilistic accident set out in the contract, in exchange for the amount of cash paid to him by that other party in an installment or so' (Ben Thunayan Suleiman, 1993, p. 40).

The Insurance Code defined an insurance contract as: 'An agreement between the insured and the subscriber in order to cover a risk. This agreement defines their mutual obligations' (Law No. 17.99 on the Insurance Code, p. 3105).

Shaykh al-Zarqa (may Allah have mercy on him) chose to define some of the civil laws of insurance, stating in his statement of truth that: "A contract between two parties, one called the insured and the other insured for his benefit, an amount of money, a salary revenue, or any

other financial compensation, in the event of an accident or the realization of a risk specified in the contract, in exchange for a premium or any other financial payment made by the insured to the insured" ([Al-Turk, 1996, p. 403](#)).

As for the provision of the insurance contract, modern jurists differed in the provision of commercial insurance, or insurance with a fixed premium, to two sayings: some of them went to permissibility, and some to prohibition, which is the choice of the audience of modern jurists since Ibn Abdeen until the middle of the fourteenth century AH, which is the doctrine of the judges of the Sharia judiciary in Egypt until 1955, a view held by the leading scholars in Saudi Arabia, and decided by the Fiqh Council of the Association and the Islamic Fiqh Council of the Organization of the Islamic Conference (Salousi, 2002, p. 485486 & Al-Hammad, 1985, pp. 74, 75, website <https://al-maktaba.org/book/12151> accessed on 31/07/2022).

As for the decision to infer the judgment of the descendant: the beholder notes in the matter of the difference of jurists in insurance that its reason is due to their difference in the adaptation of this contract, because it was an accident contract in which there was no previous text or jurisprudence and therefore they differed in the graduation of the judgment of this descendant, and there were those who authorized it and it is important to prevent it. Those who forbade Him differed in their graduations: - Among them ([The Blind, 1990, pp. 589-590](#)) who came out as the one who ate the people's money in falsehood enters into the prohibitions contained in His saying: 'O ye who have believed, do not eat your money among you in falsehood' ([al-Nisaa, verse 29](#)). – Some of them came out by analogy with Gharar, which is the subject of invalidity for all scientists, and it is achieved in insurance contracts in an apparent way that is not disputed by a sane person, as each of the contractors does not know how much he gives or how much he takes, if he contracts on an unknown in which there is a great risk ([Al-Hammad, 1985, pp. 74, 75](#). The site <https://al-maktaba.org/book/12151/7> visited 20/07/2022). Others consider it gambling because of the existence of the element of risk in both the insurance contract and gambling, as the insurance contract is on something that is not realized and is an essential element in it and in gambling as well, and this is the subject of prohibition, and as for what is recognized because of gambling of hostility, hatred and reluctance to mention God and prayer, this is from the wisdom of prohibition, gambling is forbidden even if it is free of that, so the insurance contract falls into it some hostility and hatred when one of the parties takes in The insurance contract is a large amount of money free of charge, and even if we admit that gambling leads to hostility and hatred and insurance contracts do not lead to this, the meaning of risk and gambling is realized anyway ([15-https://al-maktaba.org/book/12151/14](#) visited on 25/07/2022).

There are other forms of graduation mentioned by the jurists that came within the decision of the Fiqh Council, when they forbade commercial insurance, they were keen to find a legitimate alternative to it to which people would act, and replace commercial insurance, which is cooperative insurance, and this approach in the fatwa is the best and most worthy of the people of science to adhere to it as it holds people to the law of God and obliges them to implement its provisions, especially in such incidents, contemporary issues that are not from the law of God, and the Muslim community drowns in dressing it up, which is a violation For his religion and faith ([Salusi, 2002, p. 477](#). The Islamic Fiqh Academy is available on the website <https://al-maktaba.org/book/12151/38> visited on 26/07/2022).

Conclusion:

These are the most important findings and recommendations of this study:

Results:

a) It is from the mercy of Allah the Almighty to His servants that to make the rulings of jurisprudence a speculative aspect related to the customs, intentions and conditions of people, and responds to the changes of every time and place, thus removing embarrassment and hardship from His servants, so it was necessary to constantly renew the provisions of jurisprudence taking into account its controls and origins derived from the Book of Allah the Almighty and the Sunnah of His Prophet (peace and blessings of Allah be upon him) to absorb the latest developments in the issues of human society in every age.

b) The jurisprudential productions throughout the ages left by Muslim jurists represented in the jurisprudential synthesis of answers, fatwas, rulings, nawazel, documents, conditions, districts, Sharia politics, etc., indicate that the jurisprudential industry has contributed to the formation of an integrated Islamic civilization in all its aspects, political, social, economic and cultural, which is the secret of its survival and continuity.

c) The jurisprudential industry is a pride that every Muslim should cherish throughout the ages, because it produces jurisprudential rulings and rules that regulate various areas of life, adjust them with the law of God, inform the diaspora of societies, provide them with security, peace, tranquility and stability, and achieve justice and fraternity.

Recommendations:

1) Extracting legal regulation for new issues such as human organ transplantation, artificial insemination, genetic engineering and other jurisprudence in accordance with the mechanisms and controls of the jurisprudential industry.

2) Linking the jurisprudential industry to positivist codification to produce rulings in line with the law of Allah the Almighty.

3) Drawing the attention of jurists and the judiciary that jurisprudence is a rich and fertile material for extracting rulings and rules that contribute to solving the issues and developments of contemporary society.

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