

Role of Legal Texts in Achieving Scientific Competence

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Abstract

The legal texts require that the one dealing with it possess scientific competence that makes him qualified to derive legal rulings. This is what made legal texts functional texts that enabled those dealing with them to possess a scientific, functional, practical language that was characterized as the language of evidence, and if these legal texts enabled those dealing with them to possess scientific competence, one of the most important features of which was the expansion of perceptions, because these texts require to understand them that one dealing with it should be familiar with the Arabic linguistic sciences, such as grammar, morphology, and rhetoric, and what is not linguistic, such as verbal contexts that depend on understanding the deliberative meanings between the interlocutors. It also imposes on him scientific competence in partnership with specialists in other sciences, such as commentators and scholars of hadith. In this research, we will try to clarify how these legal texts are made with the person dealing with them, a personality that carries in its perceptions a scientific competence that makes it have straight logic and correct thought that enables it to understand the events and processes in the reality in which it lives, and it is infallible from modern contradictions in the various political, social and cultural fields that are taking place in the modern era.

Keywords: Scientific Competence, Legal, Rhetoric, Role

Introduction

Allah, blessed and exalted, Allah created accidents into races, and He made the human race the most sublime of these races, the Almighty said : (And We have certainly honored the children of Adam and carried them on the land and sea and provided for them of the good things and preferred them over much of what We have created, with preference) [1]. And enabled him to be in the corner of this universe, making it at his disposal to exploit it in a way that does not conflict with divine commands, the Almighty said: (Do you not see that Allah has made subject to you whatever is in the heavens and whatever is in the earth and amply bestowed upon you His favors, [both] apparent and unapparent? But of the people it is he who disputes about Allah without knowledge or guidance or an enlightening Book [from Him]) [1]. The one who scrutinizes the reality of God's wisdom regarding human creation realizes that it has three dimensions, namely: the mental dimension, the spiritual dimension, and the physical dimension. These requirements were made available to him by Allah through his disposal of what He has subjected to him in the universe. But he was not given absolute control over this universe. Because Allah Almighty created this universe according to a precise system, it must comply with its requirements with this universe also according to the system that controls It, given the three dimensions that are available to it In the spheres of life. And the reality of this system - the regulator of these three dimensions – Allah Almighty made it a speech directed according to commitment and diversified according to the three dimensions. Allah Almighty made the spiritual dimension a discourse of commendation, the mental dimension a discourse

of monotheism, and the physical dimension a discourse of worship. These three dimensions are what constitute the path of civilization that man builds, either with balance or imbalance.

If the mind prevails, the spiritual dimension will be sublime, the bodily sensual dimension will be balanced, and noble morals will prevail in it. Therefore, the poet said:

The illumination of the mind is voluntarily eclipsed by passion, and the mind of the disobedient to passion becomes more enlightened [2].

However, if lust prevails, the spiritual dimension will subside, the mental dimension will become subservient to the physical dimension, and the dominant spirit over civilization will become the lustful materialistic spirit. The Almighty said: (Have you seen he who has taken as his Allah his [own] desire, and Allah has sent him astray due to knowledge and has set a seal upon his hearing and his heart and put over his vision a veil? So who will guide him after Allah? Then will you not be reminded?)[1]

Problem

For a person to live in balance within these three dimensions, he must possess scientific competence from which he derives legal rulings from the texts of divine discourses that include the path of his life system within these three dimensions that constitute the path of the civilization he builds. And since the texts of the divine discourses are the axis on which he relies to derive the legal rulings that are binding on him in the system of his life and the building of his civilization,

What are the mechanisms that achieve the scientific competence for him to read consciously, obscured by the correct understanding of these legal texts?

Subject

Achieving the scientific competence that comprises the optimal approach for Islamic sciences by which we face contemporary challenges is subject to three criteria that are attracted by three parties: reality, text, and revelation. This is because a person lives with requirements associated with a specific reality while its requirements are bound by mandatory rhetorical texts, so he must understand his reality, the text of the speech addressed to him, and the text of the speech not contradict his reality. So that it combines correct understanding and good Intent. Ibn al-Qayyim said about the correctness of understanding and good intent: “The correctness of understanding and good Intent are among the greatest blessings of Allah that He bestowed upon His servant. Those whose intentions are corrupted, and the path of the lost whose understandings are corrupted, and those who are blessed are those whose understandings and intentions are beautiful, and they are the people of the straight path.”[3]. And he said about the jurisprudence of the text, the reality, and the revelation: “Neither the mufti nor the ruler can issue fatwa and judge with the truth except with two types of understanding: one of them: understanding the reality and jurisprudence in it, and deriving the knowledge of the truth of what happened with evidence, signs, and signs until he has knowledge of it. And the second type: Understanding what is obligatory in reality, which is understanding Allah’s judgment that He ruled by In His Book, or by what He said In this reality, then one is applied to the other.”[3]

It is clear from this that the real criterion, the text criterion, and the download criterion include the mechanisms that achieve the scientific competence of the science curriculum.

Therefore, we will monitor this scientific competence through these three criteria:

The criterion of the jurisprudence of reality

The jurisprudence of reality is an updated term in fundamentalist studies, so its definitions were numerous and floating, and among the broadest is the definition of Dr. Abdel-Majid Al-Najjar's definition, where he said: "We mean, by reality, what people's lives are going on, in their various fields, in terms of patterns of living and what they settle on in terms of customs, traditions, and norms, and what emerges in them of calamities and events." [4]. But the most important thing they mean is a deep understanding of what people's lives revolve around, what hinders them, and what directs them. Al-Mutairi says: "Studying societies and understanding their reality, history, culture, and social equations is what shows us the modalities and mechanisms of dealing with them, the characteristics of their discourse, and the jurisprudence that enables us to gradually take their hand in correcting their behavior according to Allah's law." [5] The jurisprudence of reality guides us to the jurisprudential approach that is compatible with the legal approach, and that achieves for us the scientific competence required to face the challenges of the age. Accordingly, the owner of the methodology of Islamic sciences cannot be described as a jurist unless he is characterized by the scientific competence described in the criterion of the jurisprudence of reality under the following conditions:

Restricting the jurisprudence of reality to the divine will

An important matter must be clarified, which is the jurisprudence of reality we mean by it: understanding it and comprehending the change and renewal in it of the various events and their requirements in the various political, economic, social, and cultural fields, then presenting the requirements of these events to the Sharia, as long as they do not contradict with the texts of the Sharia we accepted, and what contradicted the Sharia we rejected. By the jurisprudence of reality, we do not mean a reinterpretation of heritage in accordance with the requirements of the age. That is, the reality is directed by the texts, not that the reality is directed by the text. And the fact that the text is directed to reality means that the new requirements that occur in reality must be by the divine will, then understanding the mechanisms of changing reality and encompassing them, so what was in the circle of the divine will we allowed, and what was contrary to the divine will not be legitimized, the Indonesian says: "Change must comprehend the divine will first, and then the mechanisms of understanding the society at the same level, for the achievement to be accomplished." [6].

Not stagnation in understanding the text without understanding the reality

This achievement represented in facing the contemporary challenges with the complex and explosive reality with repeated and renewed human requirements cannot be faced by the owner of the Islamic sciences curriculum without a deep understanding of the laws of life's vicissitudes, the mechanisms of changing reality and every attempt to change the reality by adhering to the jurisprudence of the text without reality, it is a failed attempt that increases the appeal of the violators of the application of Sharia law on the living conditions of individuals. Therefore, many of the pioneers and thinkers of the Islamic Movement attributed the reason for its delay to its failure to consider reality and its neglect of it. Al-Najjar says: "But most of what was coming to it in terms of failure in results, or atrophy in them, was coming to it from shortcomings in representing the human reality, which it aims to reform and in having a deep perception of its nature and the elements of its formation." [4]

Al-Qaradawi distinguished between a scholar and a jurist, so he explained that the one who adheres to the text without understanding the reality is a scholar and not a jurist, while the one who understands the text without ignoring the reality is the jurist.

The first can never stand in front of contemporary challenges while the second is. Al-Qaradawi says about such people: "We have seen jurists fighting over things that can be

tolerated, disagreed upon, or postponed for a while, ignoring crucial vital Issues related to Islamic existence. And these people may not lack jurisprudence, and if it is permissible to call them scholars, then it is not permissible to call them jurists if they knew. And what Al-Qaradawi said, Al-Ghazali confirms by saying: “As for hijacking the ruling from a passing hadith, and turning away from what was mentioned In the topic from other effects, it is not the work of the scholars, and the jurists throughout our scientific history were the trusted leaders of the nation, to whom It submitted its leadership with satisfaction, and reassurance, and convinced the people of hadith to present what they transmit from the effects, just as building materials are provided to the engineer who builds the house and raises the balconies ”[7].

Not to go to extremes in prioritizing the jurisprudence of reality over the jurisprudence of the text

If some freeze on the text and ignore the reality, then there are also those who exaggerate in giving priority to the reality over the text, and both of them are a problem for human civilization. Ahmed Baoud says: “The problem of civilization today may be that those who realized the mechanisms of understanding reality did not believe in the divine speech, and many of those who believed in the divine speech did not realize the mechanisms of understanding reality” [8].

They argue that with the change in civilizational patterns and human psychological requirements, everything changes, even values. They changed and changed when history moved man from ignorance to Islam, and they are capable and must change with civilizational and technological change. Likes of these are Hassan Hanafi, who said: “Reality has precedence over every text” [9].

But the scrutinizer and investigator of the laws of reality change realize with all sincerity that the reality in it is what is fixed and what is changeable. Necessary requirements change according to the requirements of the era, provided that these requirements do not contradict the legal discourse, as we have shown previously, while the values and morals that make up a virtuous society are fixed and never change. Therefore, when the Chosen One – may Allah’s prayers and peace be upon him - was asked, as It is in a hadith on the authority of Abdullah bin Amr: “He said: It was said to the Messenger of Allah – may Allah’s prayers and peace be upon him -: “Which people are better?” He replied: Everyone who is makhmoum of the heart, who is truthful in the tongue. They said: We know him who is sincere in the tongue, so what is makhmoum of the heart? He said: He is pure piety, there is no sin, oppression, malice, or envy in him” [10]. We point out that what Is actually changing in terms of requirements is subject, In its acceptance and rejection, to controls that the Sharia determined in the sources of legislation, including analogy, reclamation, approval, companionship, and custom.

The criterion of textual jurisprudence

The criterion of textual jurisprudence requires that the owner of legal sciences know that he Is dealing with binding divine discourses, that Is, they carry legal rulings that must be performed, and these rulings are different in terms of definitive and non-deterministic demand, and definite and non-deterministic prohibition, and from here lies the danger of these texts because the owner of legal sciences may oblige society to derive a non-compulsory legal ruling from it, or vice versa. Or deprive him of something that is not forbidden in the first place. Hence, the owner of legal sciences must possess the necessary competence to deal with these texts, and the conditions for this competence are represented in two important aspects.

The first is related to the discrepancy in the legal text In terms of its chain of transmission and its significance, and the second is related to describing the eligibility of the person of competence to interrogate the text.

First: Knowing the discrepancy between the text's chain of transmission and its significance

The scientific competence of the owner of the legal sciences requires that he realize that there is a discrepancy between the bond text and the evidence In the Sharia text:

The text's bond

As long as these texts are binding, they must be verified from their original legislative source, which is the Book and the Sunnah, otherwise the text is attributed to something other than what the legislation does not have the right to. The Holy Qur'an in its bond does not need to be studied to prove that it was issued by Allah Almighty, because this is proven by the religious necessity of Muslims. Accordingly, the study of the verse as a legal text is limited to trying to understand its significance. As for the honorable Sunnah, scholars of jurisprudence, as well as scholars of hadith, divide the chain of transmission into two parts: what is definite as being issued by the infallible, and what is thought to be authentic. All details of this are covered in the specialized books.

B. The significance of the text: Scientific

Scientific competence requires the owner of legal sciences to realize that the legal texts vary in their significance between clarity and concealment, so the text that is clearly indicative is what its meaning is specific and cannot bear anything else, and the text that is hidden is its significance unless its meaning is specific and it can bear more than one meaning. Scientific competence obliges him to know that the Sharia texts, among them, indicate the fabrication of a single meaning that cannot bear anything else, and this is what is called in the terminology of the fundamentalists a text, that is, its meaning is unique and cannot be interpreted. Among them is evidence of fabrication on more than one meaning, if the meaning is not preponderant, i.e. one meaning is not preponderant over another and they are equal in the meaning of the word, then it is the term for it in general. If the meaning is more likely from the point of view of the wording, then it is the term for it in appearance. And if the meaning is preponderant with separate evidence, that is, with an external, non-linguistic presumption, then it is the al-Mu'wil. And the details of that are also broadcast in the specialty books.

Second: Characteristics of the one who has competence in interrogating the text

We have already said that the legal texts are obligatory costs, so scientific competence requires that there be In the Interrogator of these texts' legal descriptions that it is not permissible for the one who lacks them to take the lead in deriving these divine rulings. The Intent of these legal descriptions, which are In reality conditions, is for the one In whom these conditions are fulfilled to realize the purpose, location, purpose, and fruit of the text so that those who do not qualify for it will not come first to derive legal rulings, otherwise, the manifestations of chaos and turmoil will prevail In society, And for society to keep pace with its desired requirements without prejudice to the desired moral system through adherence to these Sharia rulings, Al-Shatibi says: "The degree of conscientiousness is attained by those who are characterized by two attributes, one of which is an understanding of the objectives of the Shari'ah in their perfection, and the second is the ability to deduce based on his understanding of it" [11]. Al-Shatibi stipulates two descriptions of the person with competence: Al-Shatibi stipulates two descriptions of the person with competence:

- Complete understanding of the purposes of the Sharia.
- Ability to deduce based on his understanding of it.

There is no access to understanding the purposes of the Sharia, which organizes people's lives according to the necessary requirements that are renewed with the renewal of time, except by possessing the mechanisms of deduction that serve to understand the purposes of the Sharia. These mechanisms were separated by scholars of fundamentals by knowing the verses and hadiths related to rulings, and knowing the sites of consensus and the criteria for measurement, and how to look. Knowledge of Arabic in a way that facilitates understanding of speech, knowledge of the abrogated and the abrogated, and the ability to stand on distinguishing the authentic hadith from the weak. One of the conditions that should be met in the diligent is also that he knows the people who are the subject of diligence by knowing their habits and getting to know their purposes through customs and traditions and going down to the ground of reality, and the author of Al-Maraqi collected them in his systems:

Grammar, balance, and language with the science of origins and plural eloquence

And the placement of ruling without the condition of memorizing texts with the people in control

He is of middle rank in everything that is dusty and knowledge of groups from what is considered

As the condition of singles, what is frequent, and what is true or weak has taken place
And what is on it or by copying occurred and the reason for the descent is a condition followed
Like the case of the narrators and the companions, they imitated them in the right way
Diligent has not been ignorant of the science of branches and speech is declining [12].

Criterion of the Fiqh Al-Tanzil

The Fiqh Al-Tanzil is the outcome of the mixture of congruence between the jurisprudence of the text and the jurisprudence of reality, so the Fiqh Al-Tanzil requires that the owner of the legal sciences possess scientific competence In adapting the conformity of the legal ruling with reality, that is, he must understand the course of human life, and then send down the legal ruling appropriate on this reality, Ibn Al-Qayyim says: "And jurisprudence is downloading the project on reality" [13]. Imam Al-Shatibi expressed the jurisprudence of downloading in a more accurate description, and he said: "And the clarification of this is that the evidence taken by the restriction of occurrence means downloading on the basis"[11]. And as long as the Fiqh Al-Tanzil is the conformity between the legal ruling and reality, some contemporaries called it the jurisprudence of application. Abdul Majeed Al-Najjar says: "By downloading, we mean the transformation of the religious truth that occurred during the comprehension stage into a practical pattern on which human life takes place in reality". Then synonyms download with the term application, and he says: "As for application, it is the practical procedure for what has been acquired by understanding from the legal rulings on the reality of actions"[4].

For the student of Islamic sciences to apply the texts in the reality of people's lives and face the contemporary challenges that are full of variables, he must have methodological controls that enable him to apply judgment to reality and practically verify that Islamic law is valid for any time and place, and these methodological controls are the same as the scientific competence that he needs in this third criterion.

These methodological controls revolve around the intent of the Sharia and the reasoning, that is, the legal rulings are dependent on the reasons that the Sharia made intended to match the ruling and apply them to the actions of the taxpayers. Jurisprudence is the

description entrusted to the judgment. Al-Ghazali said: “Judgment area, that is, that which the Sharia added the ruling to, entrusted to it, and established it as a sign of it” [14]. This means that the legal ruling has a cause, so the scholar must do his work to find out this cause. According to the intent of the Sharia in the approval of the cause of the ruling and its application to the act of the taxpayer. And because this foundation is very important and it represents the greatest aspect of the sciences of Islamic law, we find Imam Al-Ghazali, when he mentioned the five principles by which the existence of the criterion is realized in the branch, he said: “And there are other foundations whose enumeration is lengthy, and it is, according to investigation, nine-tenths of jurisprudential consideration”. Al-Ghazali's saying means that most of the paths by which one realizes the certainty of the jurisprudence in some of its members are due to diligence and consideration. Ibn Taymiyyah said: “The opinion is often in the investigation of the source that there is no disagreement between people in the use of opinion and analogy in it, because Allah commanded justice in judgment, and justice may be known by opinion or it may be known by the text” [14].

Imam Al-Shatibi also indicated that if he loses diligence and consideration in downloading the ruling on reality, then Sharia will remain theoretical knowledge, not procedural, and accordingly, it is not possible for the owner of Islamic sciences who possesses theoretical knowledge to face contemporary challenges. Al-Shatibi said: “If this jurisprudence was assumed to be high, the legal rulings would not be revealed to the actions of the obligated except in the mind” [14]. These controls are:

A: The lawgiver's intention of the ruling

This is the intended understanding of the rulings of Islamic law, as the scholar must realize that the legal rulings must have appropriate reasons so that there is no confusion in applying rulings to people's lives, so the rulings range between:

The presence of descriptions that cannot be justified by the judgment because they are non-influential descriptions, and the retention of the effective description to justify the judgment. This is a clearing for the provisions of the ruling, which is not the scope of it, this is what is called *Taqheeh Al-Manat*, and for example, Al-Arabi who came to the Prophet, may God's prayers and peace be upon him and told him that he had intercourse with his wife during the day in Ramadan on purpose, so the Prophet, may God's prayers and peace be upon him, required atonement for him [15].

The obligation of expiation is a legal ruling on Al-Arabi, and in which Al-Arabi fell into several matters: he had intercourse with his wife, that he was Al-Arabi, that he had intercourse with his wife, that intercourse with his wife was during Ramadan, and that he had intercourse with his wife during the day in Ramadan deliberately. And by searching for the reason that affects the ruling among these five reasons, we find that none of these descriptions is correct to be a reason for the obligation of expiation, except that he had intercourse during the day in Ramadan deliberately. The expansion of the reason is represented in violating the sanctity of Ramadan, even by deliberate eating.

The existence of a legal ruling stipulated without explaining the reason for it, so the student of knowledge tries diligence in identifying the reason for the legal ruling and extracting it for it. This is called *Takhreej al-Manat*, and for example, the text came to prohibit alcohol, but it did not explain the reason for its prohibition, so the jurists strived to extract the reason for the prohibition of alcohol, which is intoxication. Likewise, the saying of the prohibition of usury, so the jurists worked hard to extract the reason for the prohibition of usury.

The presence of validation of the cause in itself, which was proven in the legal ruling. This is called Tahqeeq Al-Manat, and for example, the hadith of Abu Qatada on the authority of the Messenger of Allah, the Prophet, may Allah's prayers and peace be upon him, said about the cat: "It is not impure, it is from the circumambulation of you and the circumambulation" [10]. The text stated the ruling, which is the purity of the cat, and his secret, and he stated the reason, which is that it is one of the domestic animals that roam around the house, but does the ruling apply to the mouse? Here the mujtahid performs the investigation of the criterion, that is, he verifies the presence of the reason in the branch.

What is meant by the legislator in understanding the linking of rulings to causes and how to extract, verify and revise them is to obtain an integrated conception of a method that controls the actions of those charged with various aspects of life that change with changing requirements?

B: Distinguishing between the purpose of the Sharia ruling and its means

The purpose of this distinction is for the owner of the legal sciences to realize that there is a difference between the purpose and the means, as the purpose is fixed and does not change, and the means is variable with the change of environment, age or custom. As long as life is patterns of living that change with the change of the means that are subject to the evolution of the requirements of the human soul as imposed by the lifestyle of every time, it is possible for the owner of legal sciences to be lenient in the means rather than the purposes, because the means are less important and rank than the purposes. Imam Al-Suyuti said: "It is forgivable in the means what is not forgivable in the case of purposes" [16]. Because it is seen that the purpose is achieved without a means or by any means, Al-Qarafi says: "If the purpose becomes available without a specific means, it is disregarded" [17].

An example of this is the hadith of Rafi' bin Khadij, who said: "I said to the Prophet, may Allah's prayers and peace be upon him: We will meet the enemy tomorrow and we have no range he said: as long as the blood flows and the name of Allah is mentioned, eat it, as long as it is not a tooth or a nail, and I will tell you about that: As for the tooth, it is bone, and as for the nail, it is the extent of Abyssinia" [15]. The Prophet - may Allah's prayers and peace be upon him - wanted to show that the purpose of slaughter is the shedding of blood. As for the means of slaughter, everything that sheds blood is not excluded. Thus, the challenges of contemporary life impose new patterns on people as a result of the innovations of the human mind, which is always looking forward to the invention, facilitating human living, and correcting human morals.

Perhaps among the most important examples of re-understanding some of the rulings in our contemporary life based on modern scientific data are the Issue of appending an adulterous child to his adulterous father. It is permissible for him to do that from a man's semen and from his loins, especially if we know that some scholars permitted that, as in al-Mughni: "The child of adultery does not belong to the adulterer according to the majority's opinion. Al-Hassan and Ibn Sirin said: The submissive person is attached to him if the limit punishment is imposed on him and he inherits from him. And Isaac said: He will follow him. It was mentioned on the authority of Urwah, and Suleiman bin Yasar similarly, and Ali bin Asim narrated on the authority of Abu Hanifa, that he said: I do not see anything wrong with a man who commits adultery with a woman and she becomes pregnant from him, that he marries her while she is pregnant, and he covers for her and the child is born to him. They unanimously agreed that if he was born on a man's bed, then another claimed that he did not join him, but the difference was regarding if he was born on a bed other than the bed" [18]. This is because the child of adultery was attached to his father, without another claiming him, by means of

medical examinations, or DNA in our present era. The hadith of Aisha, may Allah be pleased with her, is attested to by the means of their age, which is the means of bedding. Aisha- Allah bless her-(the wife of the Prophet) ` Utbah bin Abi Waqqas entrusted to his brother Sa`d bin Abi Waqqas that Ibn Walidah Zam`ah was from me, so he took him. Abd ibn Zam'a got up and said: My brother, and the son of my father's ward, was born on his bed. The slave of my father, he was born on his bed, and the Messenger of God, may God's prayers and peace be upon him, said: It is yours, O Abd ibn Zam'a. Then he said to Sauda bint Zam'a - the wife of the Prophet, may God bless him and grant him peace -: Cover yourself from him, when he saw someone who looked like him at a threshold, so he did not see it until he met God [15]. In Al-Istithkar: "Malik, on the authority of Yahya bin Saeed, on the authority of Suleiman bin Yasar, that Umar bin Al-Khattab used to abuse the children of the Jahiliyyah with those whom he claimed to be in Islam" [19].

C: Combining the texts and not differentiating between them in the application of legal rulings to reality

For the owner of Islamic sciences not to fall into contradictions in downloading legal rulings on the actions of those who are charged in reality, he must realize that the evidence of legal rulings is clear evidence that there is no doubt about them. If he sees a problem or doubt in applying one of them to reality, he must look for another text that clarifies this problem or doubt for him, and this is not possible for him unless he combines the disparate texts on the same subject to reach clarity and certainty. Al-Shatibi says: "The scholars have known that every piece of evidence that contains suspicion and confusion is not evidence in reality until its meaning becomes clear and what is meant by it becomes clear. This requires that it not be opposed by a definitive origin. If its meaning does not appear for generality or association or a definite contingent, such as the appearance of an analogy, then it is not evidence, because the truth of the evidence is that it is apparent in itself and indicative of something else. Otherwise, evidence is needed for it. If the evidence indicates that it is not valid, then it is better not to be evidence. The partial branches can't contradict the general assets, because if the partial branches do not necessitate an action, then they are in the place of suspension and if they require an action, then returning to the fundamentals is the straight path, and the particulars are interpreted until they refer to the universals" [20].

And he has to realize that some of the texts are absolute and need a restrictive one, and some of them are general and need a specific one. Al-Shatibi said: "One of the ambiguous texts is to take the absolutes before looking at their restrictions.

And in generalities without contemplating whether they have specificities or not? The text is restricted, so it is generalized, or specific, so it is generalized by the opinion without evidence other than it" [20].

An example of this is what we are witnessing in the contemporary challenges in the political arena, where there are those who legislate blind obedience to rulers without considering the intent of the purposes of the Sharia in obedience to the ruler, as the intent of the Sharia in obedience to the ruler must be fenced in observing the preservation of rights, and the protection of oneself and honor. And not restricting the freedom of individuals and groups, and striving for the protection of Islamic sanctities, as long as all of that is within the framework of Sharia commands.

On the authority of Ali Ibn Abi Talib, may Allah be pleased with him, he said: The Prophet, may ALLAH bless him and grant him peace, sent a detachment, so he hired a man from the Ansar and commanded them to obey him? He got angry and said: Did the Prophet,

may Allah's prayers and peace be upon him, not command you to obey me? They said: Yes. He said: So gather firewood for me, so they did. He said: Light a fire, so light it. He said: Enter It. They understood and made each other hold each other. And they say: We fled to the Prophet, may Allah bless him and grant him peace, from the fire, and they did not stop until the fire was extinguished. So he calmed his anger. The Prophet, may Allah's prayers and peace be upon him, was informed of it, and he said: If they had entered it, they would not have come out of it until the Day of Resurrection. Obedience is in favor" [15].

The reality of the shepherd's relationship with the ruler requires that the shepherd must obey the ruler within the framework of taking into account the Interests of the servants, spreading justice, and mercy for the weak, and whatever contradicts this reality cannot be relied upon even if it is in the name of the Sharia. So Ibn Al-Qayyim says: "The Sharia Is based and based on governance and the interests of the servants in the pension and the resurrection, it is all justice, all mercy, and all Interests. Every matter that deviates from justice to injustice, and from mercy to its opposite, and from Interest to corruption, and from wisdom to absurdity, is not from the Sharia [3].

D: Distinguishing between the position of legislation and non-position of legislation

Distinguishing between the position of legislation and not is a very important matter, so that the scholar does not turn to the words of discourse and Is limited to them, and extracts from them an abstract ruling from the context of reality, and he falls Into error and what is prohibited.

Ibn Ashour says: "Hence some scholars fall short and fall Into errors when they fail to derive the rulings of Sharia on analyzing the words, and direct their opinion to the wording convinced of It, so they still turn It over and analyze It and hope to extract its core, and neglect what we have presented of the use of the edges of speech." Evidence, adverbs, terminology, and context, and the most accurate place in the evidence and the one most In need of assistance is the place of legislation [21].

In this saying, Ibn Ashour showed the importance of knowing the context of the reality from which the discourse of the Sharia Is issued and its necessity for the scholar at the forefront of advisory opinion and rulings, because this is part of the complete consideration of the provisions of Islamic Sharia, taking into account the reality. Regarding this, he says: "What matters to the beholder of the rulings of Islamic law is to distinguish the denominations of the words and deeds of the Messenger of Allah – may Allah's prayers and peace be upon him – and distinguish between the types of his actions" [21].

So the speech of the Messenger - may God's prayers and peace be upon him - was what was issued in the place of legislation, and some of it was not issued in the place of legislation. The evidence for this division according to him "is that the Companions used to differentiate between what was of the orders of the Messenger - may God bless him and grant him peace - issued in the place of legislation, and what was issued in a place other than the place of legislation, and if they were in doubt about an issue, they asked about it" [21].

As for what was issued in a place other than the place of legislation, its example is the hadeeth of Barira the slave-girl, the wife of Mugheeth." When Aisha freed her, she took control of the manumission, so she divorced herself Mugheeth was very fond of her, and she was very hated of him, so Mugheeth spoke to the Messenger of Allah, may Allah's prayers and peace be upon him, about that. She said: Do you command me, O Messenger of Allah? He said: No, but

I am an intercessor. She refused to review it, and the Messenger of God - may God's prayers and peace be upon him - did not enrich her, nor the Muslims" [21]

She refused to go back to him, and the Messenger of Allah - may Allah's prayers and peace be upon him - did not enrich her, nor the Muslims. Barirah's article: "Do you command me, O Messenger of Allah" shows that Barirah was inquiring whether his address to her was a matter of command and compliance, so that would be legislation or was it a choice, so it would not be legislation, but intercession and petition as he said. Like the hadith of Barirah, the hadith of Jabir. When his father died, he left a debt on him, "so Jabir spoke to the Messenger of Allah - may Allah's prayers and peace be upon him - speak to his father's creditors to put some of his debt, so the Prophet, may Allah's prayers and peace be upon him, asked them to do so, but they refused to put some of it away. Jabir said: When the Messenger of Allah, May Allah bless him and grant him peace, spoke to them, it was as if they had deceived me and the Muslims did not discipline them for that" [21].

Jabir's opponents understood as Barira understood, that his speech was not for compliance and obligation, but rather for petition and preemption, and the difference between the two concerned was determined by the context of reality. Compliance is understood from it as obligatory, in which there is no choice. And these stations and conditions are considered very necessary for the one who studies the texts of the Sharia, so that he does not owe people what is not a religion, and forbids them what Allah has permitted for them. The Almighty said: "And do not say about what your tongues assert of untruth, "This is lawful and this is unlawful," to invent falsehood about Allah. Indeed, those who invent falsehood about Allah will not succeed" [1].

Ibn Ashour, by examining and extrapolating the actions of the Messenger, may Allah's prayers and peace be upon him, connected these stations to twelve stations, and he said about them: "Now It has been proposed to me that I count among the conditions of the Messenger, may Allah's prayers and peace be upon him, from which twelve words or deeds are Issued by him. Now, some of them occurred in al-Qarafi's words, and some of them did not mention them, namely: legislation, fatwa, judiciary, leadership, guidance, peace, and counseling, advice, perfecting souls, teaching lofty truths, discipline, and detachment from guidance [21]. It was simplified by representation in the book of purposes.

E: Revealing the legal meaning of the legal term according to Its name as it Is during the reality of the download

One of the important matters required In the scientific competence of the student of Islamic sciences Is to realize that the legal term was revealed with an intentional meaning in reality at the time of legislation, so he must note this intentional meaning, because the words may change their meanings With the passage of time, It is not possible to download the Intended meaning of the legal term In reality at the time of legislation to an intentional meaning that Is contrary to this word In a time other than the time of legislation, because many words and terms have changed their concept and meanings now from what they were during their legislation and revelation, and therefore the diligent should understand the texts in light of their meaning during Legislation so as not to deviate the texts of the Sharia from its purposes and objectives. Ibn Ashour says: "It is the right of the jurist to look at the names that were established for the originality of the days of legislation, and the forms that are considered during the legislation, in that they are a way to know the observed state at the time of the legislation to guide us to the proper description of the legislator."

Therefore, the legal names are considered according to their conformity with the legally observed meanings in their names when establishing the legal terminology, so if the name changes, the presence of the name is not considered, and more comprehensively, the name is not the source of rulings, but it denotes a name with descriptions, and those descriptions are the basis for rulings, so what is seen is its special descriptions" [21].

An example of this is the meaning of the word "image" in the hadith of Abu Talha. He said: "I heard the Messenger of Allah, may Allah's prayers and peace be upon him, say: Angels do not enter a house in which there is a dog, nor an image of images" [15]. The meaning of the image intended in the time of the Prophet – may Allah bless him and grant him peace – is what had a shadow and had a soul, that is, every image carved from stone, clay, wood, or what was drawn by hand and had a soul. Therefore, the intended meaning of the word image in the Sharia text cannot be attributed to the photograph, because it is an image enclosed in a shadow, not sculpted in shape. Muhammad Ali bin Abdul Wadud said:

Naming the eye other than its name does not transfer the objects from its ruling. It does not require a ban and does not require proof of a right that is not in its section. In fact, its judgment before in its yesterday is like its judgment after in its day.

An important benefit that should stop those who issue fatwas to understand it. Among the examples with which we live a contemporary challenge in understanding the texts of the Sharia in downloading the meaning of the Sharia term according to its name as it is during the reality of the download, is the issue of Ihram from Jeddah for those coming from Africa on board the plane, the Sharia text contained in the matter is the hadith of Ibn Abbas: "May Allah bless him and grant him peace - make a time for the people of Medina Dhul Hulayfah, for the people of Sham Al-Jahfa, for the people of Najd Qarn Al-Manazil, and for the people of Yemen Yalamlam, they are for them, and for those who came to them from among others who wanted Hajj and Umrah, and whoever was less than that, from where he established even the people of Mecca from Mecca" [15]. Some diligent have noticed that the meaning of the hadith is a speech directed to those coming by land, because the coming mentioned in the hadith is intended to pass through the aforementioned regions that are geographically defined in the hadith, and that does not include crossing through the air because it was not imagined at that time, so some modern scholars considered Jeddah as a time. For those coming by land and sea, among them Sheikh Abdullah bin Zaid Al Mahmoud, head of the Sharia courts and Islamic affairs in Qatar, in his letter Rulings of the Hajj Pilgrimage to the Sacred House of Allah [12], And Sheikh Mustafa Al-Zarqa and Sheikh Attia Saqr, the head of the Fatwa Committee [22]. Al-Azhar, and Al-Taher bin Ashour, Muhammad Al-Habib bin Khoja, and Abdullah Kannoun from Morocco, Abdullah Al-Ansari from the scholars of Qatar, and Muhammad bin Al-Hassan Al-Dado from the scholars of Mauritania [23]. Sheikh Mustafa Al-Zarqa says: "Flying with planes If it had existed in the era of the Messenger – may Allah's prayers and peace be upon him – when he determined these earthly times for the purpose of entering Ihram, then passing by air over the place of the Meeqaat would not have been included in this hadith, because passing through the Meeqaat that makes the passer-by like the people of the Meeqaat is not understood in The method of eloquence, except for the actual earthly passage, for this is what the people of the tongue understand with which they were addressed, and this is what: what the people of the tongue understand in the language In which the text came...until he says what the people of the tongue understand to those addressed In their time is a basis for understanding the text of great importance, not It can be ignored and bypassed [22].

Conclusion

After all this, It can be said that the legal texts do not oblige the holder of Islamic sciences to adhere to the phenomena of their meanings, so he becomes a slave to the literal meaning without taking into account what the author of the legislation intends. Therefore, adherence to the phenomena of the texts may hinder the movement of development and prosperity in all areas of life, and perhaps adherence to its phenomena may lead to disbelief and heresy, as Al-Nabigha Al-Ghalawi said:

The apparent book may be drawn to disbelief, innovation, and admonition.

Following the good and the best saying is in the saying of the Highest: "Who listen to speech and follow the best of it. Those are the ones Allah has guided, and those are people of understanding" [1]. It Is the complete obedience to the will of the Sharia with the correct understanding that is required by the purposes of the Islamic Sharia, and it is also the correct understanding and the procedural application of the Sharia rulings that are in conformity with reality as required by the human needs that do not contradict with the Sharia's will and the possession of all of this is represented In the owner of Islamic sciences possessing the standards and conditions of scientific competence, which must be his tool In every Insightful reading of the texts of the Book and the Sunnah.

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