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The Legitimate Jurisprudential Differences Among Religious Scholars (The Concept and Reasons)

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Abstract

The multiplicity of jurisprudential schools of thought, the multiplicity of points of view, and the difference of opinions on a single issue have many reasons. The researcher tried through research: (The permissible jurisprudential difference between scholars - its concept and causes); Explaining the concept and idea of the acceptable difference between scholars, and explaining the reasons in a brief manner, with a jurisprudential representation of that disagreement, without prejudice to the intended purpose.

The study was a jurisprudential study, for the student of legal knowledge to benefit from it, and to be a contribution to the project of Muslim unity based on the rule of dialogue and good faith.

Seeking an excuse. Starting from the line of a problem that is represented in two matters: First: What is the concept of a valid jurisprudential difference between scholars? Second: What are the reasons that led to the difference between scholars? This was dealt with in two sections, each section containing three demands, and the research reached a set of results, the most prominent of which is: that the majority of the reasons for permissible jurisprudential disagreement are due to two main things: the evidence and the inferred, and that the permissible jurisprudential disagreement between scholars is the opinions and interpretations that jurists have arrived at by exerting They devoted their effort and devoted their effort to knowing the rulings on jurisprudential calamities and emerging issues, and that the causes of jurisprudential disagreement have varied into general, general causes, temporary temporary causes, and detailed partial causes, and that understanding the aspects of disagreement between scholars is based on clear foundations and clear evidence and is closer to what is right and true, as the researcher has shown that the study Reasons for disagreement gives the student a jurisprudential faculty that qualifies an idea, develops awareness, and helps him know the reasons and reasons behind the disagreement between scholars.

Keywords: *Disagreement, Reasons, Disagreement, Valid Disagreement, Disagreement.*

1. INTRODUCTION

Praise be to God, and may blessings and peace be upon the Messenger of God, may God bless him and grant him peace, as for what follows:

The wisdom of God Almighty in His noble Sharia required that many texts of the Qur'an and Sunnah be possible for more than one meaning, and in this regard Al-Zarkashi says: "Know that God Almighty did not establish conclusive evidence for all legal rulings, but rather He made them speculative, intending to expand upon those who are accountable, so

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that they would not be limited to In one doctrine, there is evidence for it (Al-Zarkashi: 4/406).

The wisdom of God Almighty also necessitated the disparity of creation in minds, which led to disparity in understandings, so disagreement occurred in the legal rulings, over the ages and ages.

The benefit of knowing the reasons for the disagreement of jurists lies in narrowing the gap that we see tearing apart many Muslims, and in expanding the basis of dialogue between them on the basis of good faith and seeking an excuse. If a Muslim learns the reasons for the disagreement of jurists in the branches of jurisprudence, he knows that God Almighty has His great wisdom. In making the texts of Sharia law possible for the different meanings that the diligent scholars differ in understanding, then he expands his heart, thinks well, and seeks an excuse, and this is one of the paths of unifying the nation.

The reasons for the disagreement between jurists are many, but they can be traced back to human understanding. Human beings differ in their minds, understandings, and perceptions, and this is the mountainous reason for the disagreement between them. Sheikh al-Islam Ibn Taymiyyah - may God have mercy on him - had his invaluable message in "Removing the Blame from the Notable Imams," and in what he said. In it, let it be known that none of the imams who are generally accepted by the nation deliberately contradicts the Messenger of God in anything, subtle or significant; They are in absolute agreement on the obligation of following the Messenger, and that every person's statement should be taken into account and left behind except the Messenger of God, but if one of them is found to have a saying that has been contradicted by an authentic hadith, then he must have an excuse for abandoning it (Ibn Taymiyyah: 20/332). The Companions differed after the Prophet - may God bless him and grant him peace - on many issues that were recorded in the books of the Sunnah, the narrations, and the jurisprudence of disagreement (Abdul-Barr: pp. 300-307: Al-Shatibi: pp. 124-126).

The scholars of the Sunnis and the community still differ on matters of ijtihad, but they are: jurisprudential opinions and ijtihad that the jurists arrived at by exerting their utmost effort and devoting their effort to knowing the rulings for jurisprudential calamities and new issues that were presented to them, but they did not find their ruling explicit in the texts of the Quran and Sunnah. This difference was dictated to them by knowledge and jurisprudence, and driven to it by fear of God Almighty, sincerity, and keenness to serve Muslims and explain the rulings of their religion (Ibn al-Qayyim: 3/337-353-354-384-392-426-428).

The researcher attempts to review the concept of permissible jurisprudential difference and its causes. Among scholars.

The importance of the topic lies in the following points:

1. Explaining the efforts of scholars and the attention of fundamentalists to the causes of jurisprudential controversy.

2. Studying the reasons for disagreement among jurists demonstrates and reinforces the importance of the science of jurisprudence and its high status in the sciences of Sharia.

3. Developing the jurisprudential faculty, and emerging from the narrowness of stagnation and intolerance to the flexibility of diligence and discipline.

4. Appreciation and reverence for the scholars, as their disagreement was not the result of whims, but rather it demonstrates one of the purposes of Sharia law of expansion and relieving hardship from the nation, and that it is not pure evil, but rather it is expansion upon the nation and mercy for it.

The reasons for choosing the topic are as follows:

1. Getting acquainted with the paths of the imams in ijtihad and deduction.

2. Knowing the evidence of scholars, their points of view, and their methods of reasoning, discussion, and weighting, and that their differences are due to well-established principles and clear evidence.

3. Acquiring the scientific faculty of jurisprudence by identifying the sayings of scholars on disputed issues.

4. Staying away from the bondage of tradition and stagnation and trying to bring them closer together by combining statements, giving weight to evidence, and creating an excuse for them.

Research problem:

The problem of the study lies in answering the following questions:

1. What is the concept of acceptable jurisprudential difference among scholars?.

2. What are the reasons that led to disagreement among scholars.?

Research aims:

1. Knowing the concept of permissible jurisprudential difference among scholars.

2. Knowing the reasons and reasons that led to the jurisprudential difference among scholars.

Previous studies:

In the present era, a number of books have appeared that have dealt with this subject, and I will confine myself to mentioning the most prominent of them - in the researcher's opinion from what he encountered -, indicating the differences and similarities between them and my research:

First: The reasons for the disagreement of jurists by Dr. Abdullah bin Abdul Mohsen Al-Turki: He made his book an introduction, four chapters, and a conclusion.

The introduction was in justifying the disagreement, its origin, development, types, and the opinions of scholars regarding it, and the benefit of knowing its causes, and the bad effects of disagreements. The conclusion was in explaining the position of Muslims on disagreement, and urging them to adhere to the Qur'an and Sunnah. As for the reasons for disagreement, he limited them to four, giving each of them a chapter from the chapters of his book.

Areas of difference and agreement: The areas of agreement lie in explaining the concept of permissible jurisprudential difference and mentioning some of its reasons with representation. As for the aspects of difference, the researcher explained the origin and development of this difference, and the researcher spoke about justifying the difference. As for this study, it was limited to explaining the concept of permissible jurisprudential difference. He mentioned his reasons with a representation of each reason.

Second: The reasons for the disagreement of jurists by Sheikh Ali Al-Khafif - may God have mercy on him. In this book, the author discussed the state of legislation in the time of the Prophet - may God bless him and grant him peace, and in the time of the Companions and Followers, then he spoke about the reasons for the disagreement that occurred between them after the death of the Prophet - may God bless him and grant him peace - and then the reasons for the disagreement in the eras that followed that. He made of these reasons what exists with the availability of the text, and among them are what is a reason for disagreement in what is not in the text, taken from the reality of the disagreement that existed between the predecessors, and what was written in the depths of the books of the jurists, and he referred them to the reasons mentioned by the jurists.

Areas of agreement and difference: The areas of agreement lie in explaining the reasons for the jurisprudential difference and the authentic works that have been written in explaining the reasons for the jurisprudential difference. As for the points of difference, the researcher did not limit himself to the reasons for the jurisprudential difference. Rather, in his book, the author addressed the state of legislation in the time of the Prophet - may God bless him and grant him peace. In the time of the Companions and Followers, there was no expansion in investigating what was related to the causes of jurisprudential disagreement. As for this study, I sought to investigate a number of reasons for jurisprudential disagreement, with a representation of each reason, and an explanation of the concept of plausible jurisprudential disagreement.

Research Methodology:

This research relies on a number of scientific research methods, including:

- The inductive-deductive approach: This is through extrapolating the meaning of permissible jurisprudential disagreement, and the locations and causes of the disagreement.

- The analytical comparative approach: by mentioning the evidence with an explanation of the significance and mentioning the objections raised to it, if any, and then mentioning the answers to it to rebut these objections. Then, after presenting the arguments of the schools of thought and discussing them, weighting is done between the scholars' sayings in light of the strength of the evidence, as has appeared. Let me explain the reason for the preference.

After the introduction and the necessary elements it included, the topics were divided into two sections. Each section included three topics, and the details are as follows:

- The concept of a valid jurisprudential difference among scholars. It has two requirements:

A. First: Linguistic reliance on the permissible jurisprudential difference among scholars:

B. Second: An understanding of the permissible jurisprudential disagreement between scholars according to jurists and fundamentalists:

C. Third: The idea of a valid jurisprudential difference among scholars:

Reasons for the permissible jurisprudential difference among scholars. It has three demands:

• First: The reasons for the permissible jurisprudential difference among general (universal) scholars:

• Second: Reasons for the permissible jurisprudential difference between scholars that are temporary (temporary):

• Third: The reasons for the permissible jurisprudential difference between scholars are partial (detailed):

In addition to the conclusion, which includes: the most important results reached by the research.

2. THE CONCEPT OF JURISPRUDENTIAL DIFFERENCE IS ACCEPTABLE AMONG SCHOLARS

It fulfills three demands:

A. Linguistic basis for the permissible jurisprudential difference among scholars:

To know the meaning of this additional compound, we must understand the meaning of its two parts; The genitive and the genitive from which it is compounded in language, and in terminology are as follows:

The linguistic meaning of the disagreement: It was stated in "Lisan Al-Arab" as follows: "The two matters disagreed and disagreed: they did not agree, and whatever was not equal, they disagreed and differed (Ibn Manzur: 4/188).

The meaning of jurisprudence: in relation to jurisprudence, "jurisprudence by fraction: knowledge of a thing, understanding of it, and acumen. Jurisprudence is the understanding of what is apparent or hidden, whether spoken or not, so saying" (Al-Fayrouzabadi: p. 1199). Like the Almighty's saying: "They said, 'O Shuaib, what is it? You will understand much of what you say (The Holy Qur'an: Surat Hud: Verse: 91). According to the linguists, it means: "Knowledge of a thing, then it is limited to the knowledge of Sharia law" (Ibn Abidin: 7/36).

B. An understanding of the permissible jurisprudential disagreement between scholars according to jurists and fundamentalists:

Jurists and fundamentalists have been interested in identifying permissible jurisprudential differences, and they have three opinions regarding it:

- The first opinion: It is stated in "Definitions" that it is: "A dispute that takes place between opposing parties, to achieve a right, or to nullify a wrong" (Al-Jurjani: p. 101).

- The second opinion: The considered disagreement is every practical or scientific legal ruling intended for knowledge that does not contain conclusive evidence (Al-Zarkashi: 2/265).

- The third opinion: It is everything in which the jurisprudents differed. The jurisprudential difference that is acceptable and justifiable: This type is represented by the disagreement of the jurisprudents from the nation of Muhammad, may God bless him and grant him peace. After the era of prophecy in matters of ijtihad, by which we mean the controversial matters in which there is no text, firstly there is a definitive text on them. Imam Ibn Qayyim Al-Jawziyyah explained. May God have mercy on him. Issues of ijtihad are: "Unless there is evidence that must be acted upon by a clear obligation, such as an authentic hadith that has no contradictions of its kind, then it is permissible. In that case, ijtihad is permissible due to conflicting evidence, or due to its concealment (Ibn al-Qayyim: 3/224).

C. The idea of a valid jurisprudential difference among scholars:

God sealed the laws with the law of Muhammad - may God bless him and grant him peace - and He approved of them, Glory be to Him, for worship as a religion and method. Islamic legislation went through stages that began with the era of the Prophet, as the legislative authority in that era was for the Prophet, and no one had the right to strive to rule an issue in his presence without referring to him. So he approves of his diligence, or shows him what is correct. After his death, his companions - may God be pleased with them - carried the trust, it happened when the Islamic countries expanded, the conquests multiplied, and the companions - may God be pleased with them - dispersed throughout the regions, new events arose that required them to seek ijtihad and different environments, so their efforts varied and their fatwas differed (Abdullah Al-Wahhab Khilaf: p. 235).

The diligent imams followed after them, and they followed the same approach in taking from those who came before them, and applying ijtihad in what was presented to them. These jurisprudences were diverse and varied in most of them. Due to the diversity of their approaches to deduction, and their referring new developments to what is similar to what they have a ruling on (Al-Turki, pp. 39-40).

The widespread disagreement that is governed by the Sharia controls between scholars is a permissible and acceptable disagreement, in which there is no contradiction among the scholars, no dissension or division among the nation, and no fanaticism or quarreling over its cause. Rather, it is if it occurs within its Sharia controls and is not motivated by whims and fanaticism as a manifestation of justice. Mercy, interest, wisdom, and the removal of embarrassment and hardship from the nation, and one of the results of diligence required by Sharia (Al-Shafi'i: p. 560).

3. REASONS FOR THE PERMISSIBLE JURISPRUDENTIAL DIFFERENCE AMONG SCHOLARS:

It has three demands:

First. Reasons for the permissible jurisprudential difference between general (universal) scholars:

They are the general reasons that fall under them, and from them branch out the detailed, partial reasons (Al-Munawi: 102). The reasons for the difference can be limited to specific principles, to which the permissible jurisprudential difference is due, and they are limited to two matters:

- The first matter: the evidence, whether in its proof or its significance regarding the possibility, concealment, contradiction, and so on in the text (Al-Zuhayli: 1/85).

- The second matter: The inferred one, that is, from the point of view of his understanding. His wisdom, glory be to Him, in His creation required that He make them different in their minds and understandings, out of mercy for them. And if He had willed, He could have made the people one nation in their thoughts and understandings, and He would have sent down to them the Book, explaining and explaining it, without generality or possibility. (Al-Baynouni: p. 20) .

The occurrence of disagreement in the nation is an inevitable matter that God Almighty has decreed according to its destiny. Human beings differ in their minds, understandings, and perceptions, and this is the mountainous reason for the occurrence of disagreement between them, and it is due to the diligent individual. Imam Al-Batalyusi says in Al-Tabbih - warning that difference is a mountainous matter among humans: "Difference is rooted in our nature, imprinted in our creation, and it cannot be raised or eliminated except." By the elevation of this creation and our transfer to a mountain other than this mountain (Al-Batalyusi: 1/2).

It is difficult for the researcher to investigate the reasons that lead to differences between jurists. The difference is due in its origin to the difference in their interpretations, the difference in their understanding of the meaning of the law, and the meanings of the legal texts in which the difference occurs (Al-Turki: 11-13).

It indicates the breadth of Islamic law, the flexibility of its provisions, and the wealth of legislative jurisprudence.

Second; Reasons for the permissible jurisprudential difference between scholars are temporary (temporary):

The first reason: attaining the hadith and knowledge of it:

The hadith must not have reached him, and whoever has not heard the hadith is not required to be knowledgeable according to it, and if he has not reached it and he said in that case according to the apparent meaning of a verse or another hadith; or by measure; Or it is required to be accompanied by that hadith, sometimes it agrees with it, and at other times it contradicts it.

This reason: It prevails over most of the sayings of the predecessors that contradict each other.

An example of this is that our master Omar bin Al-Khattab - may God be pleased with him - did not know the Sunnah for asking for permission until Abu Musa Al-Ash'ari - may God be pleased with him - told him about it and cited the Ansar. Omar is more knowledgeable than those who narrated this Sunnah to him (Ibn Taymiyyah: 11:109).

The second reason: reaching the hadith and forgetting it:

That the hadith reached him and was proven to him, but he forgot it. This is mentioned in the Qur'an and Sunnah, and examples of this include the following:

The difference that occurred regarding the ruling on tayammum due to impurity when there is no water, or the inability to use it, was reported on the authority of Omar ibn al-Khattab and Abdullah ibn Masoud - may God be pleased with them - that the impurity person does not perform tayammum and delays the prayer until he finds water and then performs ablution and makes up for what he left of the prayer, and the evidence is that Its permissibility is what Al-Shafi'i narrated on the authority of Abu Raja' Al-Atardi. He mentioned it, so Omar said: No, by God, we will give you of that what you have assumed (Al-Mawardi: 1/249).

Third Reasons for the permissible jurisprudential difference between scholars are partial (detailed):

They are legitimate reasons that contributed to the existence and persistence of disagreement among jurists. Examples of those reasons include the following:

An example of this is Al-Shafi'i's work on hadith while denying the narrator, and our scholars - may God have mercy on them - did not act on it. It was reported on the authority of Aisha, may God be pleased with her, that the Prophet, peace be upon him, said: "Any woman who marries without the permission of her guardian, her marriage is invalid." Then Al-Shafi'i acted upon it while denying the narrator, but Abu Hanifa and Abu Yusuf did not act upon it because the narrator denied it, and they said this chapter should be based on the disagreement between our scholars - may God have mercy on them.

A. Second: The mursal hadith: Unsupported prophetic hadith : The scholars of hadith defined it as: what the Tabi'i say: The Messenger of God - may God bless him and grant him peace - said without mentioning the companion from whom he quoted. This difference resulted in the jurists disagreeing regarding several rulings mentioned in the mursal hadiths, but the Shafi'is rejected them and acted upon them. The audience.

B. Third: Believing that the hadith is weak based on Ijtihad in which others disagreed with it, without considering another path, whether it was correct with him, or with someone else, or with both of them according to those who say: {Every diligent person is right} (Ibn Taymiyyah, p. 21:20:19).

I. leaving work on the text due to an external matter:

It is that it violates some well-established rules and conditions, such as some of them stipulating that the hadith be presented according to the Qur'an and Sunnah, some of them stipulating that the hadith narrator be a jurist if he violates the analogy of the principles, some of them stipulating that the hadith should spread and appear if it is in a widespread affliction, and other things that are known in their places (Ibn Taymiyyah: p. 22). What scholars disagreed about:

1. Protesting an irregular reading:

Scholars differed on this matter, with statements such as the following:

The first statement: It is permissible to invoke the abnormal reading in deriving practical legal rulings, if its support is correct.

The majority of Hanafi and Hanbali scholars agreed with this opinion (Al-Asnawi 2/333: by Al-Amdi 1/160, Ibn Al-Najjar 2/138).

The second opinion: The abnormal reading is not invoked if it is independent of proving a new ruling.

The third opinion: It is not valid to invoke irregular reading at all. This is the doctrine of Imam Malik and one of the two opinions of Imam Al-Shafi'i and some of his companions. They said: It is not permissible to invoke irregular reading. Al-Nawawi said: "Our doctrine is that irregular reading is not used as evidence, and it does not have the same ruling as narration from the Messenger of God, may God bless him and grant him peace. "Peace be upon him."

Based on this difference in invoking the irregular reading, the difference occurred regarding the obligation of succession in expiation for swearing an oath. A group of scholars held that succession is obligatory based on Ibn Masoud's reading (so fasting for three successive days) and by analogy with succession in expiation for zihar. The other group went to the lack of obligation of succession in expiation for swearing an oath. Because there is no evidence for the requirement of succession (Al-Ghazali 1/194).

Among the rules about which the scholars, including jurists, hadith scholars, and fundamentalists differed, is the following rule:

2. The narrator's work is different from his narration:

The narrator may act or give a fatwa contrary to what he narrated, and this matter has led to jurisprudential disagreement among scholars, and the rule of this rule according to the Shafi'is and others is that the evidence is in the words of the Messenger - may God bless him and grant him peace - not in the doctrine of the narrator or his work or fatwas. The Hanafi school of thought considered the narrator's work and doctrine to be less than his narration, and they placed his work in the same position as a copyist. They considered him and his fatwa to challenge the hadith he narrated, and he worked and issued a fatwa contrary to it, and the Hanafi school of thought used it as evidence for their doctrine.

Al-Amidi chose that if the companion's reasoning for the disagreement is known, and that is what necessitates interpreting the report according to what the narrator believed, then that evidence must be followed, not because the narrator acted on it, because the work of one of the diligent scholars is not evidence against the other, and if his reasoning is not known, then it is necessary to act according to the apparent meaning of the hadith. The imams' differences in this fundamentalist rule are based on a large difference in the legal branches and details that fall under it (Al Bayanouni: p. 70), including:

- Their differences regarding raising the hands when bowing and raising them during prayer:

We find that scholars have differed regarding certain areas of prayer. Is it Sunnah to raise the hands or not? Among these positions is raising the hands when descending to bowing, and when rising from it.

Al-Shafi'i, Ahmad, and the majority of scholars among the Companions and those who came after them, and Malik in one of the two narrations from him, said that it is Sunnah to raise the hands in these two situations (Al-Shawkani 2/180, Ibn Rushd 1/196). Abu Hanifa, his companions, and a group of the people of Kufa said that raising the hands is not desirable. Other than the opening takbeer (Al-Bukhari: 3/64).

II. linguistic meanings and connotations of legal texts:

One of the reasons for the disagreement among jurists is their difference in the meaning of the text in terms of language (Al-Qalqashandi 1/184, Ibn Kathir 4/365). Among her most prominent pictures:

First: assigning the common word to one of its meanings or meanings:

The common thing is: it dealt with individuals with different borders as an alternative.

This includes slaughtering sacrifices at night on the days of slaughter. Most jurists have held that the time for slaughter is these specific days mentioned in the Almighty's saying: "That they may witness benefits for themselves and mention the name of God in specific days for what He has provided for them of livestock" (The Holy Qur'an: Surah Al-Hajj: Verse 28).

But they disagreed: Is it permissible to slaughter during the nights of these days, or is slaughtering limited to the day only?

Most jurists are of the opinion that slaughtering at night is permissible, just as it is permissible during the day. Among those who hold that permissibility are Abu Hanifa, Al-Shafi'i, and Ahmad in the most correct opinions on his authority, except that Al-Shafi'i disliked slaughtering at night lest a man make a mistake in slaughtering or if there were no poor people present (Al-Shafi'i 2/239).

Malik stated in his well-known opinion that it is not permissible to slaughter on the nights of the days of al-Tashreeq or the day of sacrifice.. The reason for their difference is the common name of the day, and that is because the Arabs once used it to refer to the day and the night (Ibn Rushd 2/200).

Second: The rotation of the word between truth and metaphor:

The truth is: the word used in what it was originally intended for, and it includes the linguistic, legal, customary, and conventional situation (Al-Razi 1/286).

Metaphor is: a word used in a way other than what it was originally intended for due to a relationship between the two meanings with a presumption that prevents the meaning from being intended.

Examples of this include: the difference in the ruling on invalidating ablution by touching a woman. Abu Hanifa and Abu Yusuf - may God have mercy on them - argued that immoral behavior invalidates ablution, and that what is meant by touching is in the Almighty's saying: "Have you touched women" (The Holy Qur'an: Surat An-Nisa: Verse 43).

The figurative meaning: Touch is linguistically used to refer to touching with the hand and is used as a metaphor for sexual intercourse (Ibn Manzur 6/209).

Because intercourse in this manner is a reason for the emission of pre-ejaculation in most cases, but merely touching a woman with or without desire is not an event as long as nothing comes out of it (Al-Sarkhasi 1/68).

The Shafi'is are of the view that ablution is invalidated by unobstructed touching if they are significant and not in ihram (Abdul-Wahhab: p. 75).

The Hanbalis have a well-known view, which is - the apparent doctrine - that touching a woman invalidates ablution if it is done with desire. This is because they saw that touching in the verse is from the general category, which meant the specific, so they made the occurrence of desire and pleasure upon touching a reason for invalidating ablution (Al-Mardawi: 1/211, Ibn Al-Najjar 1/25).

III. The difference in the connotations of Arabic words and their fundamental rules:

The law of the Chosen One - may God bless him and grant him peace - is what he received and its origin is the Qur'an and the Sunnah, and the effects of the Companions, their incidents, and their judgments in rulings, and all of them are in the most eloquent languages and the most honorable expressions, and it is necessary to drink Arabic, as it is the pretext to understanding the Sharia and the words of the Arabic language with various connotations. Among the differences that occurred between jurists (Al-Juwayni: p. 200):

First: Letters of meaning in the meaning of some letters, such as conjunctions and prepositions, for example:

Punishment for one who strives to spread corruption on earth:

God Almighty says: "Indeed, the recompense of those who wage war against God and His Messenger and strive to spread corruption through the land is only that they be killed or crucified or that their hands and feet be cut off in disagreement or that they be exiled from the land. That is for Him , they are disgraced in this world, and for them in the Hereafter is a great punishment. (The Holy Qur'an: Surah Al-Ma'idah: Verse 33).

The jurists differed regarding the meaning or meaning contained in the verse. Because or is shared in many meanings, including that or here for choice, such as in the saying: Marry Hind or her sister and take from my money a dinar or a dirham.

The Imam may choose from these punishments what he deems a deterrent to the corrupter (Ibn Hisham: p. 87:88).

The meaning of the concept, including the concept of violation, which is: the meaning of the word to negate the established ruling of the operative word that is silent due to the absence of any of the restrictions on the operative word (Al-Zuhayli: 2/154). The difference in general and specific issues. Fundamentalists have defined the general with multiple definitions, including:

Ibn Jazi's definition: It is what refers to specific names considering a matter in which a stroke is involved, i.e. a single push (Ibn Jazi: 2/101). Examples of disagreements between jurists on public and private issues include:

Is it permissible to shed blood? Is he protected by seeking refuge in the Haram?

The scholars agreed that whoever commits a crime that necessitates retaliation in the limbs, and then resorts to the sanctuary, he will be subjected to retaliation. They also agreed that whoever commits a crime against himself or less in the sanctuary, and necessitates a punishment, his punishment will be reduced in the sanctuary. But they differed regarding the offender outside the Sanctuary and then resorting to the Sanctuary. Should he be punished inside the Sanctuary based on the sayings:

The first opinion: What the Hanafis have said is that he does not retaliate against him inside the sanctuary, but rather resorts to going outside by not feeding him, watering him, or treating him, so that when he goes out, retaliation is taken against him (Al-Qurtubi: 4/140).

The second opinion: The majority of scholars, including Al-Shafi'i and Malik, are of the view that whoever is obligated to punish himself, then resorts to the Sanctuary, then retaliation will be taken against him, and they applied it harshly to the one who commits a crime inside the Sanctuary. Killing him is permissible (Al-Shawkani: 7/43).

The Fourth opinion: Difference in matters of command and prohibition:

The most deserving thing to begin with is to explain commands and prohibitions. Because most of the affliction is due to them, and by knowing them and then knowing the rulings, and distinguishing what is permissible from what is forbidden (Al-Sarskhi: 1/11).

The matter is: seeking action on the authority of superiority (Al-Aamidi: 2/8). Examples of disagreement on this issue include:

The difference in making up for fasts for those who broke their fast in Ramadan due to an excuse such as travel, illness, or menstruation. According to the Hanbalis, it is necessary to hasten to make up for it, even if he delays it while he is able to do it until the next Ramadan comes, he has sinned and is obligated to make up for it, and it is also obligatory to make up for it as expiation for the delay. Accordingly, a voluntary fast is not valid until the obligatory fast is performed.

Obligation to hasten to the matter (Ibn Qadamah: 1/434) in the Almighty's saying: "And a number of other days" (The Holy Qur'an: Surah Al-Baqarah: Verse 184).

The matter requires immediate action, and Al-Shafi'i and Malik - may God be pleased with them - went to such a position (Ibn al-Laham: p. 83).

The Hanafis, with the exception of Al-Karkhi, are of the opinion that laziness is abolished, and based on this, he may fast as many voluntary fasts as he wishes (Al-Kasani: 2/104).

Prohibition: In language, it is the opposite of command, and in terminology: it is the verbal statement indicating a request to refrain, on the side of superiority (Al-Shawkani: p. 109).

IV. The difference in the paths of the cause and issues of analogy:

Sharia analogy: It is attaching the ruling required for something according to Sharia law to something that is silent about due to its similarity to the thing for which Sharia law required that ruling or due to a common cause between them. Therefore, Sharia analogy was of two types: similarity analogy, and defect analogy (Ibn Rushd: 1/10).

Among the matters in which there is disagreement is the judiciary of the traveler and the sick, as some of them required that the judiciary be sequential in terms of performance, and some of them did not require that, and some of them were good and some of them preferred sequentiality, and the group agreed to abandon the obligation of sequentiality.

Al-Tawfi said: "Rulings are either not justified, like acts of worship, or they are justified, such as quarantining a child due to his weak mind in order to preserve his wealth, or there is no doubt about whether they are justified or not, such as our saying: Using dirt to wash the looge of a dog. Is it worship or is it justified?

The analogy occurs in every one of its forms. Rather, since we understood that the ruling was established for one of the meanings, we attached to it the branches in which that meaning was found, such as wine with wine, and rice with wheat. That is why we said: Rulings are either not justified, like acts of worship, or they are justified, like quarantining a child due to his weak mind in order to protect his money, or what is doubtful about being reasoned in the first place, such as our saying: Using dirt to wash a dog's licking, is it worship or is it justified? This disagreement emerged regarding the use of soap, soap, and washing (Ibn Rushd: 2/61).

Types of ijtihad in the legal reason related to analogies, which is either by verifying the point, or refining it, or graduating it. The point is: what the ruling was assigned to, that is: it was attached to it, and it is the reason upon which the ruling was originally created. It is said: I tied the rope with a peg, I attached it to a knot: If I hung it, and from it is Dhat Anwat: a tree in which they used to hang their weapons in pre-Islamic times, and it was mentioned in the hadith.

As for achieving the point, it is of two types, and this is indicated by his statement later on: "This is an analogy less than the one before it" -:

One of them: that there is an agreed-upon or stipulated legal rule, which is the basic principle, so the mujtahid finds out its existence in the branch (Al-Tawfi: 3/233: 232).

The second type: when the reason for a ruling in its place is known by text or consensus, and the mujtahid finds out its existence in the branch, and this is indicated by his saying: "or an explanation of the presence of the reason in it" (Al-Tawfi: 2/236).

V. The difference in the disputed evidence, its types and conditions:

The difference occurred between jurists regarding the disputed legal evidence that is considered reasons leading to the legal ruling. An example of this is the difference in the validity of approval.

Istihsan is: reversing the ruling of an issue in the same way as what was ruled in its counterparts to something contrary to it for a reason that is stronger than the first, and that requires reversing (Al-Bukhari: 4/6).

The difference in the validity of approval has occurred among the following schools of thought:

The first: What the Hanafi school of thought agreed upon (Al-Jassas: 4/223)

Hanbalis (Al-Tawfi: 3/197, Ibn Qudamah: 2/531).

That it is proof, and that everything that God Almighty and His Messenger - may God bless him and grant him peace - have ruled is good, and all the rulings that have been proven to be valid are inevitably recommended, and nothing else is permissible.

Al-Shafi'i and his companions denied it. As for the companions of Malik, there was neither strong-minded nor strongly opposed to it to exist. We have followed it in our doctrine and also divided it into sections. Some of them left the evidence for the benefit, some left the evidence for custom, some left the evidence for the consensus of the people of Medina, and some left the evidence for the sake of facilitating the removal of hardship and favoring expansion. On creation (Al-Shafi'i: 1/503).

An example of where the disagreement occurred between jurists based on their differences in the validity of istihsan is the difference in the validity of prayer if the man is aligned with the woman in it, according to two opinions:

The first saying: His prayer is invalidated as if he delayed it and the worst of it was the beginning, and this is what the Hanafis held (Al-Uyaini: 2/347). And a narration according to the Hanbalis (Ibn Muflih 2/93:92). What is preferred for men is to be ahead of women. If he stands beside her or behind her, then he has left the place chosen for him. He has also left one of the obligations of prayer, as he must delay it when performing the prayer in congregation. He, peace and blessings be upon him, said: "Remove them from where God delayed them" (Ibn Khuzaymah: 3). /9/1700).

What is meant by the command to delay her for the sake of prayer, so it was one of the duties of his prayer, and this is because the state of prayer is the state of monologue, so no meaning of lust should come to his mind in it, and the woman's proximity to him is indispensable from that, so the command to delay her became one of the duties of his prayer, so if he neglects it, his prayer is invalidated, but rather do not spoil her prayers; Because the decision to delay is for the man, and he can delay it without delaying it by getting ahead of it (Al-Kasani: 1/239).

The second opinion: It is disliked by them, and it does not invalidate their prayer. The Malikis went to that, saying in Al-Nawadir... Musa narrated on the authority of Ibn Al-Qasim, who said: Malik said, "And if a man prays behind the women or a woman in front of the men, she dislikes it, and it does not invalidate the prayer of any of them" (Al-Hattaab: 2/107).

VI. The difference in methods of combining and weighing conflicting evidence:

In the terminology of the jurisprudents, conflict is: the confrontation of two pieces of evidence as a matter of opposition, and this conflict had a very significant impact on the

disagreement in the branches, to the point that you rarely touch upon a chapter of jurisprudence without finding in it issues in which the disagreement resulted from the discrepancy between the evidence and then preference, and among the matters in which disagreement occurred between jurists. As a result of the difference in methods of resolving the contradiction between the two evidences (Al-Zarkashi: 8/120).

The difference in the purity of the urine of someone whose meat is eaten is based on two opinions:

The first opinion: It is impure, and Abu Hanifa and Abu Yusuf held this view (Al-Zayla'i: 1/74).

May God have mercy on them - as was reported by the Shafi'is (Al-Ghazali: 1/155).

They cited as evidence the generality of his saying - may God bless him and grant him peace - "So abstain from urine" (Al-Daraqutni: 1/233/466).

The second opinion: He is pure, and this is what Muhammad bin Al-Hasan, may God have mercy on him, went to (Al-Sarskhi: 1/54). From the Hanafi school of thought, which is the Maliki school of thought (Al-Dardir: 1/51).

The well-known authentic narration on the authority of Imam Ahmad - may God have mercy on him - is that they took the hadith of the two maidens and singled out for it the generality of the hadith about abstaining from urine (Ibn Qudamah: p. 18).

As for the majority of scholars, they say that it is forbidden. Because temporary marriage was permissible at the beginning of Islam, then the Prophet - may God bless him and grant him peace - abrogated it and forbade it after that, forever, meaning until the Day of Resurrection (Abdul Ghaffar 1/23). This difference also includes the issue of the conflict between the general and the specific, over which scholars have differed:

The Hanafi believe that the general and the specific must be viewed from two angles: including looking at the advanced and the latter, as the earlier supersedes the later, according to them.

As for the public, they see that the private and the public do not contradict each other. Because the specific takes precedence over the general, so the specific is acted upon in its specificity, and the general is acted upon in its generality.

As God Almighty says: "And do not marry polytheist women" (The Holy Qur'an: Surat Al-Baqarah: Verse 221).

This text is general, in all polytheist women, but the specification came with the permissibility of women of the People of the Book, so we say: There is no contradiction between them, rather the specific remains in its specificity regarding the law of marriage to the People of the Book, and the general remains in its generality without the women of the People of the Book, so all polytheist women who worship the sun, or It is not permissible to marry the moon, water, elephants, or mice (Abdul Ghaffar: 5/8).

4. CONCLUSIONS:

The following are some of the results reached through this research:

1. The reasons for the permissible jurisprudential disagreement are due to two main things: the evidence and the evidence.

2. The permissible jurisprudential difference between scholars is the opinions and jurisprudence that jurists have reached by exerting their efforts and devoting their effort to knowing the rulings for jurisprudential calamities and emerging issues.

3. The causes of jurisprudential disagreement have varied into general, general causes, temporary, incidental causes, and detailed, partial causes.

4. Realizing the differences between scholars and that this is based on clear foundations and clear evidence and is closer to correctness and truth.

5. The research showed that studying the causes of disagreement gives the student a jurisprudential faculty that qualifies an idea, develops awareness, and helps him know the causes and their reasons that led to disagreement among scholars.

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