

“No Ijtihad Upon Citation of Text”

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(Translated)

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Regarding « لا اجتهاد عند ورود النص » “No ijtihad upon the citation of the text”, this Shariah juristic principle is expressed in several forms, including, « لا اجتهاد في مورد النص » “There is no ijtihad in the case of the text,” « الاجتهاد عند عدم النص » “Ijtihad is only in the absence of the text,” and « لا مسأغ للاجتهاد في مورد النص » “There is no room for ijtihad in the case of the text.”

Ijtihad is known as استخراج “extracting” (and in the terminology of the usool of jurisprudence, استنباط “derivation”) the Shariah legal rulings from the detailed evidence. Al-Baydawi defined it as exhausting effort in comprehending (perceiving) the Shariah legal rulings.

The text is the word that indicates a single meaning, and it is synonymous with our saying « قطعي الدلالة » “definitive in evidencing.” Ibn Rushd said in the introduction to his book Bidayat al-Mujtahid, « والأعيان التي يتعلق بها الحكم إما أن يدل عليها بلفظ يدل على معنى واحد فقط وهو الذي يعرف في صناعة أصول الفقه بالنص ولا خلاف في وجوب العمل به وإما أن يدل عليها بلفظ يدل على The entities to which the ruling is related are either indicated by a word that indicates only one meaning, which is known in the art of the principles of jurisprudence as the text (an-nas), and there is no disagreement about the necessity of acting upon it, or they are indicated by a word that indicates more than one meaning.”

The Imam ar-Razi defined the text in Al-Mahsul as the word that is not open to ambiguity. Sheikh Muhammad Al-Khudari Bak attributed this term to the Shafi’is, saying, « قسم الشافعية الحكم إلى ظاهر ونص فالظاهر عندهم الذي له دلالة ظنية راجحة.. فإن صرف عن هذا المعنى الظاهر فأريد به المعنى المرجوح لقرينة فهو المؤول. والنص ما دل على معنى بدون أن يحتمل معنى آخر » “The Shafi’is divided the ruling into apparent (zaahir) and textual. The apparent, according to them, is that which has a “preponderant conjectural evidencing.” If it is diverted from this apparent meaning, and is intended to mean the preponderant meaning, due to a contextualization (qareenah), then it is the interpreted meaning. On the other hand, the text is that which indicates a meaning, without being open to another meaning.”

Therefore, the meaning of the rule is that if the words of the Noble Qur’an, or the Sunnah of the Prophet (saw), have only one meaning and their evidencing is definitive (qata’iyyah), then there is no room for ijtihad in them. An example of this is the Qur’anic verse, « وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا » “Allah has permitted trade and forbidden usury.” It is in the explicitness (الصريحة) which prohibits all usury. After this ayah, there is no room for ijtihad in the ruling on usury. Similar to this is the saying of the Prophet (saw) « البينة على المدعي واليمين على من أنكر » “The burden of evidence is on the claimant, and the oath is on the one who denies.”

So, it is not to be said that the text is the verses of the Qur’an, and the hadiths of the Prophet (saw), so if we do not find the Shariah legal ruling in them, we exert our own effort. This is not said because the subject is a subject of terminology, and the

word is understood according to the terminology of the people of each body of knowledge. Do you not see that the word "جرار" "tractor" in the language means something different from what it means to those who work in agriculture? And the word العباداة "worship" in the books of Shariah jurisprudence, which includes Salah, Zakat, Hajj and Jihad means something different from what it means when it appears in the Qur'an and Sunnah, where its linguistic meaning is submission, following, and humility. Likewise, in the terminology of the jurists, the text is the verses of the Qur'an and the hadiths of the Prophet (saw), but in the terminology of the ulema of the usool of jurisprudence, the text is what we mentioned. Ibn Rushd referred to this in his previous statement when he said, "وهو الذي يعرف في صناعة أصول الفقه بالنص" "...and it is what is known in the art of the principles of jurisprudence as the text." As for the text in the language, it is the elevation. The Nass (text) of something means its elevation, and from this comes the bride's platform due to its height, and the Qur'an and Sunnah are called the Nass because they are the highest form of speech. As for the definitive evidencing (qatiyyatud dalalah), it is called the text because it dominated over the rest of the words.

The wrong understanding of the principle led to wrong statements such as saying: Ijtihad is done in texts other than the Qur'an and Sunnah, or saying that the sources of legislation in Islam are three: the Qur'an, the Sunnah, and Ijtihad, which occurs when we do not find the ruling we are looking for in the Qur'an and Sunnah. They also relied on the hadith of Mu'adh when the Messenger of Allah (saw) asked him: **بِم تَقْضِي** "How do you rule?" He said: **بكِتَابِ اللَّهِ** "By the Book of Allah." He said: **فَإِنْ لَمْ تَجِدْ؟** "And if you do not find it?" He said: **بِسُنَّةِ رَسُولِهِ** "By the Sunnah of His Messenger." He said: **فَإِنْ لَمْ تَجِدْ؟** "And if you do not find it?" He said: **أَجْتَهِدُ رَأْيِي لَا أَلُو** "I will exert my opinion, sparing no effort." The hadith is Hassan (good). However, the incorrect understanding contradicts the verses indicating that the Shari'ah is complete and every action of the servants is included in the Shari'ah, such as the Almighty's Saying **﴿وَنَزَّلْنَا عَلَيْكَ الْكِتَابَ تِبْيَانًا لِّكُلِّ شَيْءٍ﴾** "And We have sent down to you the Book as clarification for all matters." [TMQ Surat Al-A'raf: 13]. The correct meaning of the hadith is that the mujtahid must search within the Qur'an and Sunnah when there is no clear and explicit text on the issue. This is explained by the hadith of Mu'adh and Abu Musa when the Messenger of Allah (saw) sent them to Yemen and asked them: **بِم تَقْضِيَانِ؟** **How do you both rule?** They said: **إِذَا لَمْ نَجِدِ الْحُكْمَ فِي الْكِتَابِ وَلَا السُّنَّةِ** "If we do not find the ruling in the Book or the Sunnah, we make analogy of the matter with the matter, and whatever is closer to the truth we act upon." This is a reference to the Words of Allah (swt) **﴿وَقُلِ الْحَقُّ مِنْ رَبِّكُمْ﴾** "And say, 'The truth is from your Lord.'" And All-Praise be to Allah, Lord of the Worlds.