

The Role of Reason in Ijtihad

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The Role of Reason in Ijtihad

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Translated from the Persian by Mahliqa Qara'i

In the previous discussion, "The Principle of *Ijtihad* in Islam", two trends in Islamic thought were referred to. One of them related to the subject of the justifiability or unjustifiability of the use of *qiyas* and *ijtihad bi al-ra'y*, a practice that acquired prevalence among different schools of fiqh. The other was regarding the controversy about Divine justice and reason as the criterion of moral and legal *judgements* (*al-husn wal-qubh al-'aqliyyan*) among the *mutakallimun*. These controversies actually revolved around the central issue of the role or the "rights" of reason.

Some schools of fiqh which supported *qiyas*, especially the Hanafi school, believed in the role of reason in *ijtihad*, which in their interpretation took the form of *qiyas* and *ijtihad bi al-ra'y*. But the other schools opposed to *qiyas*, especially the Zahiri school, did not approve of any role for reason, neither in the form of *qiyas* nor in any other form.

Accordingly, the first group, while enumerating the sources of legislation, maintained that there were four: the Qur'an, the Sunnah, *ijma'* (consensus) and *ijtihad* (*qiyas*). But the second group did not go beyond the Qur'an, the Sunnah and, at the most, *ijma'*.

Among the *mutakallimun*, the Mu'tazilah believed in the independent role of reason, and also in Divine justice and the rational basis of moral and legal judgements. They believed that the system of creation is established on the foundations of justice, and that the present system is the best possible. They also explained away the problem of evil in the world and believed that in the next world too punishment and reward will be according to the unalterable criteria of justice. The knowledge of these criteria is also within the province of reason. It is not possible that God should will anything that is not according to these definite rational criteria.

With regard to legislation, also, they believed that the Divine commands have been set forth according to the criteria of justice and with due attention to a series of real benefits and harms (that lie in obedience or disobedience to the laws). According to the Mu'tazilite doctrine, there is a purpose and aim hidden in every Divine Act, whether it relates to creation or legislation.

But the Asha'irah did not believe in any of the above-mentioned doctrines. They did not acknowledge Divine justice or the rational basis of moral and legal judgements. They did not believe that the world is based on the principle of justice and that the present system of creation is the best possible.

Neither, according to them, in the other world matters will be decided on the criteria of justice, nor the system of Divine laws has been patterned to ensure a series of benefits and to avoid harms. They did not believe in any aim and purpose for Divine Acts either. According to their doctrine, the belief in the

principle of justice, the belief in a rational basis of moral and legal judgements, and the belief that Divine Acts are subject to aims and purposes, usefulness and harmfulness, contradict the principle of *tawhid* and the idea of absolute freedom of God as a free actor.

No law or principle can be set forth as a criterion of His Will thus imposing limits upon Him. God's Will is neither subordinate to any criteria nor is it subject to any laws or principles; on the contrary all laws and principles are subject to and proceed from His Will.

Judgements of reason cannot be relied upon to enable us to say definitely that such and such a thing is in accordance with justice or not. For instance, it cannot be said for certain that those people who obey God will be sent to heaven and those who sin to hell. His Will and Acts cannot be restricted by any of such rules. They interpret the following verse that says:

He will not be questioned as to that which He doth, but they will be questioned. (21:23)

to mean that it is not right to ask 'why' and 'wherefore' about His Acts. There is no criterion or standard applicable to Divine Acts so as to justify any question about God's Action or forbearance. The Asha'irah have formally objected to the statement that 'The Heavens stand on the foundations of justice', and said that it is not so; they point out that matters like pain and disease, the creation of Satan, social injustice and inequality, class distinctions, domination of the corrupt over the virtuous in the world, and the like, are things which are observable through reason, and, if the order of the universe were based on justice, should not have existed. As for the religious laws and precepts, they have formally declared that they are not based on wisdom and prudence.

They say that the *Shari'ah* and its laws bring together disparities and separate similarities. Many matters, in spite of their being unlike, have the same judgement, and many other matters in spite of their being similar and parallel have different judgements applicable to them. They have mentioned various examples, to mention which is not possible here.

Anyhow, according to the Ash'arite doctrine, the process of creation is not subject to the principle of justice; rather, justice is subordinated to creation. In the same way, the laws of the *Shari'ah* are also not subject to any real underlying benefits or harms; rather, benefit and harm, good and evil, are subservient to the provisions of the *Shari'ah*. That is, if we are to speak about justice and injustice, right and wrong, beneficial and harmful, what we should mean is that whatever God does is just, good and beneficial, not that God does what is just, good and beneficial.

This kind of thinking is not without similarity to the trend that existed among the ancient Greek thinkers and the Sophists two thousand and five hundred years ago about reality and the worth of human thought and ideas. They raised the question whether reality is something which exists and our minds and their ideas, in order to be valid, should correspond to reality, or whether it is not so and reality is subject to our minds.

For instance, during philosophical and scientific contemplation, we may make a statement about something and say that such and such is the case. Now does our statement correspond to some reality independent of our minds, which would be true if it corresponded with that reality?

Or whether, on the contrary, truth and reality are subservient to our minds, and whatever we perceive is the truth? And since it is possible that different individuals should perceive something in diverse ways, truth is relative to each one of them, being different from what it is for others? Therefore, truth and reality are relative?

What a group of Muslim *mutakallimun* have said about religion in relation to truth, goodness, justice and benefit was said before them by the Greek Sophists about the mind in relation to reality and truth. The arguments presented by the Sophists for proving their claim resemble those advanced by this group of *mutakallimun*. Due to this similarity it would be right to give them the name of 'Islamic sophists'.

This group of *mutakallimun* believed that they had discovered various contradictions, equal treatment of disparities, and unequal treatment of similarities in Islamic laws. They maintained that, on account of these contradictions, it is not possible for any real benefits and harms to be the criteria of religious laws. Therefore, it is the religious laws that are the criteria of good and bad, benefit and harm.

The Sophists had also made an excuse of the contradictions and errors of reason and perception, to hold that due to these contradictions it is not possible for a reality which is transcendental to the mind, and which the mind should follow, to exist. Reality, on the other hand, is a function of the mind. The answer given by philosophers to Greek and non-Greek sophists is also similar to the one given by the 'Adlites (those who believed in Divine justice, '*adl*') to that group of *mutakallimun*, but here we shall abstain from going into further details.

The doctrine of *taswib* (lit. ratification) held by this group of *mutakallimun* is totally similar to the theory of relativism. According to the theory of relativity of truth, whatever one perceives is truth in relation to him though in relation to others it may be error, not truth. Also according to the theory of *taswib*, whatever one mujtahid may deduce is correct as far as he himself is concerned, although it may not be so for others.

On the Crossroads

There are many problems which are theoretically of profound significance, but practically are not so important. There are also many problems which are not so important regarding their theoretical value but from the practical point of view they are of extraordinary significance. For instance, in theology we have the problem of Divine Attributes, which is of great importance so far as theory is concerned but is of little practical utility.

For example, the study of and inquiry into the question whether the Attributes of God are identical with

His Essence or not can be an important subject for theoretical study, but from the practical point of view it is of little consequence which one of the two doctrines you choose; it does not influence the life and behaviour of a Muslim society.

But the problem of *jabr* or *tafwid* (predestination or freedom) is important from the theoretical point of view as much as it is valuable for its practical aspect. Because the belief in the doctrines of determinism and fatalism and the negation of every kind of human freedom ruin the spirit of action and kill every kind of dynamism.

The problem of Divine justice and belief in rational criteria of moral and legal judgements occupies the most important position in Islamic thought due to its great influence on the intellectual and scientific history and behaviour of Muslims.

It is a fact that those who discussed and studied this issue soon arrived at the crossroads, where they had either to accept religious laws as based on a reality discoverable by reason, to try as far as possible to discover that rational basis, to acknowledge a purpose and meaning of religion, to try to discover those purposes and objectives, and to recognize reason as an “inner proof and an “internal prophet” and to accept the definite judgements of reason as enjoying the approval of the Divine Lawgiver; or to consider the aim and purpose of the *Shari'ah* as entailing mere obligation and acts of absolute servility devoid of any objective, and close all the doors on research and intellectual inquiry.

How much it matters whether we conceive religion in terms of external forms and shapes, viewing any change in external forms and appearances as a change of essence and content, and, imagining some kind of inherent correspondence between those forms and the very spirit of religion, recognize that soul in every form and shape!

And what a great difference it makes whether we consider the universal laws of Islam, which cover a wide range of social and ethical problems and concern all modes of human life, as based upon a series of realities relating to spiritual health and well-being and innate human rights, or if we deny the existence of those realities and believe, for instance, that vices like jealousy, falsehood, and suspiciousness are bad because they have been forbidden by the Lawgiver, and virtues like truthfulness, honesty, and benevolence are good as they have been commanded by Him, as if there is no difference between them in reality.

Similarly, human rights also are to be acknowledged as such on account of their being set forth by the Islamic lawgiver, or else had they been determined in some other fashion that would have been equally right. Justice and oppression are also defined in the light of these commandments, and if something else had been enjoined, justice and injustice would have been defined in quite a different way.

The Shi'ite Position

The two above-mentioned intellectual trends were discussed from the point of view of Sunni *fiqh* and *kalam*. Now it is necessary to study them from the Shi'ite point of view also. The early Shi'ite logic concerning the first of the two trends is extremely sensitive and interesting. As for the first trend, that is, regarding the problem of justifiability or unjustifiability of *qiyas*, Shi'ah rejected *qiyas* on the basis of the express texts (*nusus*) of their Imams. As mentioned in the former discussion, the Shi'ah disapproved of *qiyas* for two reasons:

Firstly, the use of *qiyas* was justified by others for the reason that the problems to be solved are unlimited, whereas the dicta of the *Shari'ah* are limited; therefore they are forced to resort to it. The Shi'ah do not accept this reason because, they say, it is not necessary that every event and problem should have a specified rule.

General rules applicable to all situations are given in the *Shari'ah*. The only thing needed is competent *ijtihad*, inquiry and reflection to derive the particular from the general. Many ahadith narrated from the Imams (A) and recorded in the collections of hadith, like al-Kafi, etc., make the same point.

Secondly, *qiyas* is something which is based upon conjecture, surmise, and superficial similarities, and is a kind of interference made by reason in such matters which are not intelligible. At one time we may be concerned with the course of action in a case when reason comprehends a fact with certainty and clarity. At other times, in cases where the matter is not comprehensible to reason, is it justifiable to follow conjecture and surmise? There is of course a great difference between the two kinds of situations, but evidently if the foundations of the religion are to be laid on *ra'y*, *qiyas*, surmise and guess-work, it will lead to its destruction. This was the position held by the Shi'ah with regard to the first trend.

As for the second, had the Shi'ah logic in rejecting *qiyas* been similar to that of its other opponents who rejected it because they did not believe in the rational basis of the religious laws and that they were based on facts of nature, they too would have been forced to take a hostile stand against the doctrines of Divine justice and the rational basis of moral and legal judgements. However, as we have seen, the Shi'ah's reasons for rejecting *qiyas* were different.

Therefore, in spite of strongly disapproving *qiyas*, they formally affirmed the share of reason in *ijtihad*. The Shi'ite *fuqaha'* and the *usuliyyun* officially recognized reason as one of the four sources of *fiqh* and the Shi'ite *mutakallimun* earnestly supported the doctrine of justice, to the extent that it came to be said: "*Adl* and *tawhid* are 'Alawids."

It is here that the sensitiveness of the Shi'ite stand comes to light. On the one hand they accepted the share of reason, and on the other they discarded *qiyas* and *ra'y* as something based upon surmise and conjecture. In fact, with utmost discernment they followed the real path of the Qur'an, which eloquently approves of the use of reason but disapproves of surmise and conjecture, and considers it invalid.

The Shi'ah occupied a very delicate position between the right and the left, and a little deviation from the middle path was enough to expose them to the danger of *qiyas* on the one side and on the other to that of servile obscurantism and stagnant formalism.

However, during the later years, when the pointer of the scale tilted in favour of the Asha'riah, and even the Hanafis, who stood at the remotest point from the Ash'arite doctrine, became inclined towards them, how long could the Shi'ah adhere to the middle course and be able to advance at the same time without deviating either towards the extreme of *qiyas* or towards that of a stagnant formalism? It is a matter that deserves to be studied in its scientific and historical detail. Here we can briefly point out two things:

Firstly during the course of the intellectual history of Islam, all the sects and groups influenced one another. The 'Adlites were influenced by the ideas of non-'Adlites and the non-'Adlites by those of the 'Adlites. The influence of ideas was reciprocal, and naturally the Shi'ah also couldn't remain aloof from it.

Secondly, if we examine the extant works of Shi'ite scholars, we shall find the anti-*qiyas* sensitivity of the early days to prevail right up to the present. It is hard to find a single scholar among the Shi'ite fuqaha' to exhibit any pro-*qiyas* tendencies, and if a very small number of scholars had such tendencies, they belonged to the former times not to the later ages. Therefore, there is complete certainty as to the absence of deviation towards this extreme.

However such a sensitivity regarding deviation towards the other extreme is not so evident. Those who are in the know of it know well that the terms 'Adlites and non-'Adlites have only ceremonial implications in the vocabulary of the later scholars. Had the way paved by the 'Adlites in the past been followed, it would have been the source of the origination of many of the social sciences among Muslims – the sciences whose fountainhead was discovered by the Europeans gradually one thousand years after the Muslims' discovery of it.

The interest in truth and justice as independent realities, on the part of the Europeans, gave rise to social, political and economic philosophies and scientific and judicial disciplines on the one hand, and on the other served as the source of awakening of nations and infused in them the feeling of life's worthiness.

The Muslims could not continue their journey on the path that was discovered by them and recognize the source and origin of human rights as being inherent in nature. They failed to discover the primary bases of the Islamic legal system and the social philosophy of Islam and to explain it to others and make use of that general basis in the deduction of the laws of the *Shari'ah*.

In the opinion of the specialists, the Islamic legal system is one of the most valuable legal systems of the world. In the East greater emphasis was laid on ethics than on law, contrary to the West, where either the case was opposite, or at least the same emphasis was laid on the two. The distinction belongs to Islam of paying equal attention to both ethics and law. But the Muslims, due to various reasons and factors, gave more importance to ethics and neglected the Islamic legal system.

Possibly, the above discussion about the role of reason and the doctrine of justice may give rise to the misconception that since Islamic laws are based upon the interests of the individual and society it is good to indulge naively in speculation and try to find some philosophy behind Islamic laws and rituals and conjure up reasons for such acts, for instance, as *tayammum* (ritual purification by sand when water cannot be obtained), *ghusl* (bathing), *madmadah* (mouth washing) or *istinshaq* (drawing water into the nose during the wudu¹) and to abstain from performing them as long as the underlying rationale has not been found.

I should clarify that my purpose is not this. What I wish to say is that Islamic laws and precepts, whether they concern civil rights, penal laws, social relations or some other aspect, are based on a series of truths and facts. If we acquire the knowledge of those facts through a scientific method appropriate to their study – whose principles have been mostly discovered in our present-day world – we will be able to understand the meaning of and rationale behind Islamic laws, which have reached us through revelation, in a better way.

For instance, through the Holy Qur'an as well as through the teachings of the leaders of the Din, great aphorisms and ethical rules have reached us. These sayings and injunctions have been always accessible to everyone. But is it possible for everyone at present, or was it possible for those in the past, to analyze them fully and to understand perfectly their aim and spirit without being misled?

Unless one does have complete knowledge of the scientific fundamentals of ethics and psychology, it is not possible for him to grasp the spirit of those words of wisdom, which appear to be simple at first sight. The real value and sublimity of those heavenly sayings become clearer if anyone studies the various ethical systems of the world with their occasionally divergent aims and principles.

To give another example, in the Holy Qur'an, as well as in the words of the Prophet (S) and the Infallible Imams (A), we come across a great number of discourses regarding *tawhid* and the Names and Attributes of God. Those who have spent their lives studying *tawhid* and theology know that sometimes they come across statements in the Qur'an and the Nahj al-balaghah with an underlying ocean of meaning, whereas the same expressions and sentences led the Ahl al-Hadith, the Hanbalis and the Zahiris to anthropomorphism and heresy.

What is the reason? This is because, since knowledge is the key to revelation, whatever has been received through revelation, despite its simplicity and universal utility, is an extract of reality which can be arrived at only through science.

At the time of the last Hajj, while encouraging the people to memorize and preserve whatever they heard from him, and to convey to the future generations, the Prophet (S) said:

How often one conveys knowledge to another who is more learned than himself.

The one who hears ahadith may possess more power of understanding and analysis than the narrator

himself. He may comprehend its spirit, purpose and meaning in a better way on account of his superior knowledge. The religion can be understood better in the light of knowledge. The secret of greatness and miraculous character of the holy religion of Islam lies in the immense scope of its teachings; and if any aspect of nature is illuminated by means of science, it not only does not make obsolete the teachings of Islam but makes them brighter and clearer.

In the realm of the spiritual, in relation to the mystic path, those who have been successful in grasping the hidden meaning of the discourses relating to this topic, have been those who have had familiarity with that realm. Ibn Abi al-Hadid says that the gist of what all mystics have said can be seen in the few sentences of the sermon of the Imam 'Ali (A) commencing with the words:

In short, knowledge is the key to religion. The scope of Islamic teachings and laws covers all modes and aspects of human life, and, definitely, the more we come to know about a sphere of human life and scientific principles related to it, the greater the benefit we shall be able to draw from the bounty of Divine revelation. If merely the knowledge of Arabic language were sufficient for the understanding of the religion, a simple Arab would have been able to draw as much amount of benefit from its teachings as a philosopher (*hakim-e ilahi*).

The bases of human rights, also, are not an exception to this general rule. Like ethics and theology, the rights are also based upon a series of natural truths. The more we are acquainted with those fundamental truths and principles, the better can we understand the aim and purpose of the religion. If we know those principles and fundamentals, perhaps we shall recognize many of the verses of the Qur'an and traditions as relating to *ahkam* which hitherto have not been counted as having any legal significance. However, for the time being, it is not possible to go into further details.

Thus, our aim is not that we should philosophize or speculate about the rationale of Islamic laws and precepts. We aim to point out that since the teachings of Islam cover all spheres of human life, and since, on the basis of our belief in the doctrine of Divine justice, we know that these teachings are not extravagant and baseless, but are based upon truth and natural realities and are constituted on the basis of those realities, so if we come to know closely those realities – which have been systematically studied in the course of several centuries and their study has taken the form of scientific disciplines – we shall be better able to comprehend the meanings and purposes of the language of revelation (*wahy*), as we have seen in the study of ethics and theology.

In Islam, there are laws associated with economy, society, government and politics. Now all of them are considered to be subject to a series of unalterable and fixed laws. Therefore, how can anyone without the knowledge of those laws claim to have comprehended perfectly the viewpoint and purpose of Islam regarding matters relating to them and present them before the world as the most sublime of social teachings?

If an ordinary person without knowing anything about *hikmat-e ilahi* can comprehend the verses and

traditions related to *tawhid* and other topics of theology as well as a philosopher who has worked diligently and understands well the basics of philosophy, then any person ignorant of the sciences can also comprehend and understand the viewpoint of Islam concerning various social problems to the extent of a social scientist.

Islam, according to the express text of the Qur'an, is the religion of nature. On the other hand we observe that a group of scientists and scholars have claimed that some of the human rights are natural and inborn, hence permanent and fixed, general and universal, and are prior to all other positive rights. Is it not necessary to investigate this problem, to see whether this is true? If it is, it is evident that Islam acknowledges them formally.

Is it true that things like the freedom of the individual, equality, the right to private property and ownership, the freedom of belief, the freedom of expression and the like are rooted in the human nature and are laws prescribed by nature itself, and that their acknowledgement constitutes the basic condition for the development of all human societies and wholesome human relations?

Do human rights precede social existence? Does the individual possess them prior to his social existence, and does social existence mean that every individual participates in society with the capital of his prior and essential rights, thus establishing a kind of association with the help of other individuals?

Or the rights of an individual in society are posterior to society and that social existence is the source and origin of the individual's rights? Or does the individual in himself have no rights whatsoever; whatever he has are duties and responsibilities alone, and rights belong to society, as some have said?

What is the basis for determining rights? Is it the interests of the individual or those of society? To what extent is it necessary to protect the rights of the individual? Is the limit for the protection of the rights of the individual the point where such protection interferes with the right of other individuals, or occasionally this limit is set when the individual's rights conflict with the interests of society?

These, and hundreds of such questions, have to be answered, and incidentally we have received guidelines and teachings in Islam regarding all of them. If those guidelines were compiled and given a scientific form, it would elucidate the great value of Islamic teachings and open many of the present dead-ends.

Therefore, by emphasis on the share of reason we neither mean to support the practice of *qiyas* and *ra'y*, which was innovated in the olden days, nor the practice of speculation, which has become customary in our age.

The aim is to stress the scientific study of problems which are covered in the great scope of the teachings of Islam, whose resourcefulness and problem-solving potential has been recurrently proved to us in the course of the last fourteen centuries. This is the only lasting miraculous aspect of this monotheistic faith.

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