

Ranks of evidence in Islamic Jurisprudence

Research submitted by

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RESEARCH INTRODUCTION

Praise be to Allah, Lord of the worlds, and by Him, we seek assistance. Allah who created the best.

The science of the Islamic Jurisprudence is for the sake of the sciences of Sharia (Islamic law). That is the honorable, beneficial, and the most influential of them, wherethe imams seek knowledge fromand it is the sourceused to give a legal opinion (fatwa) assessing evidence. Hajjat al-Islam al-Ghazalisaid about it(the most honorable science is that in which hearing and reason are used to reach evidence, and accompanied by opinion and Sharia (Islamic law). The science of knowledge like this takes from the purity of Islamic law and the mind the same path. Thus, it is not a disposition of pure minds so that the law does not receive it with acceptance, nor is it based on pure imitation for which the mind does not attest to support without evidence)

Then, after I finished my commentary on the new explanation on the collection of the Islamic jurisprudence by Imam Taj al-Din al-Sabki and his explanation of the Scholar of Iraq and its previous mufti, the fundamentalist sheik, the literary jurist Abdul Karim al-Dabban, may Allah Almighty have mercy on him. I decided to write this research in the field of this honorable science when I noticed the overlapping of concepts, terminology, and boundaries. It helped to remove the ambiguity in its topic to define the meanings and also benefit the specialists in this field.

Al-Ghazali, Muhammad bin Muhammad, Al-Mustasfi from the science of origins 2, 2/3, Dar Al-Fikr for Printing and Publishing.

It is also for not the overlapping of a term and mixed with the close second in the mind of the recipient. There are many scholars of issues that are confused by the terms because they are close to each other within their limits.

I resolved after relying on Allah Almighty to write this research hoping for it to be accepted by Allah Almighty. Although this research tackled only this issue, I intend to write another research soon to deal with other fundamental differences identified with other topics by the Almighty help and success. Thus, if I am right, then, it is the grace and success of Allah, if it is not, then it is not the intended mistake and my apology is my good faith and good intent, and Allah Almighty is the guide to the straight path.

I divided my research into the following:

The ranks of the guide, and it includes three sections:

The first topic: argument, evidence, and includes:

The first Section: argument and evidence

The third Section: the difference between argument and evidence.

The second topic: the source and it includes:

The First Section: the source.

The second Section: the difference between the source and the evidence:

The third Section: the evidence and the Source:

The third topic: The Similarity and the Indication

The First Section: the Similarity

The second Section: the difference between evidence and Similarity:

The third Section: the indication

The first topic: argument, evidence, and origin

The first Section: Evidence and Guide:

First: the linguistic definition:

1. Defining the evidence in the linguistic sense:

The Arabic letters (و ج ه ح) are four principles. The first is the intention, and each intention is an argument. The Arabic word (حجة) may be derived from it. Since it means the required right in the dispute (2). The argument is the evidence and the proof, by the world and the argument that is the straight path (3). Al-Haj (الحج) is the victory by the argument, it is said: he proofed an argument with evidence if he prevails over his argument (4).

Second: the evidence:

1. Definition of evidence in the linguistic sense:

The word evidence is used in the language and it means:

The first meaning is : (the guide):

(2) IbnFaris, Abu al-Husayn Ahmad bin Zakaria (1979 AD) Dictionary of Language Standards, Abd al-Salam Muhammad Harun, Part 2, p. 29, Dar al-Fikr.

(3) IbnFaris, Mu'jam al-Maqayas al-Linguistics, previous source, Part 2, p. 29

(4) Al-Zubaidi, Crown of the Bride from Al-Qamous Jewels, previous source, vol.5, p. 459.

IbnAbbad said: A rational man, an adult, and the guidance is the indication (showing a path) (5). Al-Zubaidi said: He is the guide (6). Al-Manawi said: The guide is the language of the guider (7). The guide to the required is mentioned and intended by the signifier, and from it, if someone says, the guide for the perplexed (lost), that is, guide them to remove their bafflement. It is mentioned and intended by the Arabic diacritics (mansoob) to know the meaning. For this meaning, the word smoke is used as evidence of fire (8). Moreover, the guider is the guide and the explorer (9). IbnManzur says: his guide to the thing is a sign and the significance. Thus, if he points to someone or something, means the guide (guided) that tells you (10).

Although this topic deals with the linguistic meaning, it is necessary to list the fundamentalists' opinions about the guide linguistically, because the researcher feels the importance of that in order to draw clear pictures of the idea, especially the research that talks about (الحجة) argumentativeness. This is one of the most important research data and does not hide the clear relationship between the fundamentalist and linguistic conveyed meanings. At the same time, the argument that I quote from the fundamentalists is not the definition of the idiomatic sense.

(5) IbnAbbad, Al-Muhit fi Al-Lajwah, previous source, Part 2, p. 129.

(6) Al-Zubaidi, Crown of the Bride from Al-Qamous Jewels, previous source, Part 28, p.501

(7) Al-Manawi, Muhammad Abd Al-Raouf (1410 AH), the investigation of the tasks of definitions, edited by: Muhammad Radwan Al-Day, ed. 5, c1, p. 340, House of Contemporary Thought, Beirut.

(8) Al-Kafawi, Ayoub Bin Musa (1998 AD) Al-Colleges, edited by: Adnan Darwish, Part 1, p. 686, Foundation for the Message, Beirut.

(9) Al-Fayoumi, Ahmad Bin Muhammad Bin Ali Al-Maqri, The Illuminating Lamp in Gharib Al-Sharh Al-Kabeer by Al-Rafei, vol.1, p. 199, The Scientific Library, Beirut

(10) IbnManzur, Muhammad IbnMakram, Lisan Al-Arab, i 1, c 11, p. 247, Dar Sader, Beirut.

Which will come after this topic, where the fundamentalists called the evidence as the guide or the guider.

Al-Sarkhasi says: "As for the evidence, it is an actual signifier, in the status of an all-knowing scholar, and among them is their saying: the guider of the perplexed, that is, guide them to what removes their confusion, and from it, it is called the guide of the convoy. That is, he guides them to the road, so it is called after his action's meaning (11).

Al-Zarkashi said: "In the language, there are two things: one of them is the guide to the wanted in the sense that he is the subject of intended meaning, and its appearance, so the meaning of the indicative

evidence is (فعيل) in the sense of the subject, as an all-knowing scholar, most powerful in which the meaning is taken from the evidence of the people because he guides them to their intentions (12).

The second meaning:

The meaning of guidance such as a sign postured from stones or other to show the path (13). The guide is what is guided by (14). The indicative guide that has shown the road indicatively (15). The guide is what is guided by and guided guidance (16). As for its meaning among the fundamentalists, they mentioned it by this meaning.

(11) Al-Sarkhasi, Ahmad bin Muhammad, (1993) Usul Sarkhasi, ed. 1, c. 1, 287, Dar Al-Kutub Al-Ulmiyyah, Beirut, Lebanon.

(12) Al-Zarkashi, Al-Bahr Al-Muhir, Previous source, Part 1, p. 34

(13) Ibn Amir Hajj (1996 AD) The Report and Inking in the Science of Usul (1417 AH) Part 1, p. 66., Dar Al-Fikr, Beirut

(14) Al-Zubaidi, Taj Al-Arous, previous source, Part 28, p. 501.

(15) Ibn Manzur, Lisan al-Arab, previous source, Part 11, p. 247.

In this sense, Al-Zarkashi says: “The word guidance is used and it has two: The second is what is in the direction: that is, the mark intended to show the guidance, and from it, they say: The scientist is the guide of the maker.” (17)

The third meaning: the guide describer, and it means:

The guide talker, or the talker that guide to something. Al-Kafawi says: “The evidence that is the guide to what is required. It is mentioned and meant by it: the Arabic diacritics to know the intended meaning (المدلول)” (18).

The proof or evidence is the language of the guider, and it is the accusative and the memory, and what is in it by guidance. Thus, it is said that the evidence for the manufacturer is said to be the maker. Since he sets forth to the world a proof of himself or the world or the knower with kasrah to the letter (ج) in the Arabic word (العالم). Because he who reminds that the scientist is a guide to the maker; because he who guides (19).

As for the expressions of the fundamentalists, many came to this with meaning for evidence. Amir Badshah said: “Judge Adad al-Din mentioned that in a language it comes to three meanings:

One of them is the guide, and Al-Amedi expressed it by the person who puts the evidence for what he said by the conductor himself. The second: the talker about it, and he expressed it by saying or remembrance for what is guiding, and the third: what is in guidance is like stones set in the roads, then it is said: the evidence for the maker is the maker or the scientist because he sets evidence to the world

guidance. And the scientist in Arabic with the diacritics kasrah in Arabic for the word (العالم). He talks to the path seeker.

(16) Al-Razi, Mukhtar As-Sahih, previous source, Part 1, p. 218.

(17) Al-Zarkashi, previous source, Al-Bahr Al-Bahr, p. 34.

(18) Al-Kafawi, Al-Koliyat, previous source, p. 686.

(19) Al-Tahanawi, Muhammad bin Ali (1996 AD) Scouts of the Terminology of Sciences and Arts, Edition 1, edited by: Dr. Rafiq Al-Ajam, Part 1, pg. 793, Lebanon Library Publishers, Beirut

(20) Amir Badshah, Muhammad Amin, Tayseer Al-Tahrir, Egypt

It is mentioned to the inference that the scientist is a guide to the Maker, and the scientist with the fatha diacritics in Arabic to the word (العلم) is the one who provides guidance (20).

Ibn Amir al-Hajj said: “They said: The language of evidence has three meanings that connect to the intended point, and the Al-Amidi expressed it as a sign of the evidence. The one who thinks that there is a guide to what is required is like the one who defines the road by mentioning what guides it. Thus, there is guidance such as a sign postured from stones or other to show the road (21).

After this presentation of the meanings of the evidence to which the scholars of linguistics and Islamic jurisprudence used, it becomes evident that the evidence is called: the one who appoint it as a truth, and its conveyor, and its connotative meaning metaphorically. Al-Zarkashi says: “Then they differed, it was said that the truth of right evidence. Then, it was said, rather the sign indicating the signified, based on the use of the two meanings in the language(22).

Ibn Amir al-Hajj adds in this regard: «The proofing of evidence for the signifier and talker of evidence is true, on what it has a metaphorical instruction, as the act is attributed to the machine, so it is said: The knife is cutting (23).

(20) Amir Badshah, Muhammad Amin, Tayseer Al-Tahrir, previous source, Part 1, p. 42.

(21) Amir Bad Shah, Tayseer Al-Tahrir, previous source, Part 1, p. 66.

(22) Al-Zarkashi, Al-Bahr Al-Muhir, previous source, Part 1, p. 25.

(23) Ibn Amir al-Hajj, The Report and the Inking, previous source, Part 1, p. 66.

What has been chosen is that the meaning of the evidence does not deviate from the guide and what it contains is guidance, according to what was given by the sayings of linguists. Therefore, the guide and what is in it are the real meanings. They are the two meanings that are observed in the meanings of the

language, as for the third meaning, it appears that it is the metaphorical meaning, which goes back to the first real meaning. What is below is a metaphor. Ibn al-Najjar says: “The evidence in the language of the guide means that the guide is called truth and what is obtained by guidance is a metaphor.” (24) And among the scholars were those who said: The evidence is given to two meanings only and not to the three meanings as quoted from Ibn al-Najjar, for they disagreed with it.

Imam Al-Amidi says in this regard: “As for evidence, it may be used in the language with the meaning of the signifier, and it is the maker of evidence. And also said that he is the narrator of the evidence and it is called for what guides and guidance.

2. The Definition of evidence in the idiomatic sense:

The evidence has two meanings, one of which is more general than the second at all:

(24) Ibn al-Najjar, Muhammad bin Ahmed bin Abd (1997 CE), Explanation of al-Kawkab al-Munir, ed. 2, edited by: Muhammad al-Zuhaili, NazihHamad, vol.1, p. 21, Obeikan Library

(25) Al-Amadi, Ali bin Muhammad, Al-Ahkam fi Usul Al-Ahkam, ed. 1, Edited by: Syed Al-Jaili, Part 1, p. 27, Dar Al-Kitaab Al-Arabi, Beirut.

A- Evidence in the broadest sense:

What can be achieved correctly considering what is required of knowledge, (26). Imam Al-Subki says in explaining the definition: “Rather, he said, it is possible; because the evidence does not deviate from being evidence without considering it, and is restricted to the correct consideration because the false narration cannot be reached. The definition of the indication because the informational requirement is more general than it is scientific or speculative, and on this, the general jurists release evidence for what led to knowledge or suspicion (27).

The restriction by what is required to guard against the explanation and to reach the predictive requirement in certainty or presumptive manner, and on this the evidence is general in terms of the benefit of absolute truth or conjecture, and this is the doctrine of many scholars. Some of them went to the view that it is not called evidence until it is useful for absolute reality, and what is beneficial for the conjecture is called an indication. This is what many scholars have said (28).

(26) Al-Sobky, Abd al-Wahhab bin Ali (1999 AD), Raising al-Hajeb, on the authority of MuqtasarIbn al-Hajib, ed. 1, investigation: Ali Muhammad Moawad, Adel Ahmad Abd al-Muawjid, vol.1, p. 252, Alam al-Kutub, Beirut.

(27) Al-Sobky, Raising the eyebrow, according to Ibn al-Hajeb's summary, previous source, vol.1, p. 252

(28) Al-Namlah, Abd al-Karim bin Ali (1999), al-Muhadhdhab in the science of comparative jurisprudence, part 2, p. 472, Al-Shorouk Press, Riyadh.

B-Definition in a More General Sense:

Evidence: What can be achieved with knowledge by an expert requirement (29). Al-San'ani says: "you should know that this definition is in line with the convention of the speakers in that it is necessary for the evidence to inform him of knowledge, so that what is useful for the conjecture is produced, so it is not called evidence for them and it is called a sign (30).

By presenting the above two definitions in the general and specific sense, it appears: The definition in the special sense is specific to the deterministic evidence called the proof, but the definition in the broadest sense of the evidence includes definitive and presumptive knowledge and this meaning is considered by most fundamentalists.

The second Section: the difference between argument and evidence.

It is necessary here to talk about the argument and differentiate it from the evidence according to the fundamentalists, because of its importance in drawing a clear picture of the authenticity and its importance in clarifying the meaning of the argument and its levels, despite the words of some scholars regarding the difference between the evidence and the argument. It came from Imam Al-Rawyani in the Bahar in the difference between the evidence and the argument, two sides (31)

(29) Al-Amadi, Al-Ahkam fi Usool Al Ahkam, previous source, Part 1, p. 28.

(30) Al-San`ani, Muhammad Bin Ismail (1986 A.D.) Usul Al-Fiqh called The Questioner's Answer, SharhFawiyat Al-Amal, ed. 1, edited by: Hussein Al-Siyaghi and Hassan Al-Ahdal, Part 1, p. 54, Foundation Al-Risala, Beirut.

One of them is that the evidence indicates what is required of you, and the argument of what is prohibited from that.

The second: the evidence is what indicates your rightness, and the argument is what prompted you to say that you contradict you.

However, the statements of the fundamentalists that the words of argument, proof, and authority are synonymous with the word evidence, as it was stated by al-Baghdadi in defining evidence: It is inferred from a text or something else, and is interchangeable with words including the proof, the argument, the authority and the verse (32).

After looking at the sayings of the scholars, it can be said that using the word the argument on the evidence in all its levels and the proof is in order to show the cause and the will of the cause. Evidence, authority, and proof are the reasons leading to the Sharia ruling (Islamic law) and this analysis according to the linguistic meaning.

(31) Al-Zarkashi, Muhammad bin Bahadur, Al-Bahr Al-Muhit, edited by Dr. Abdul Qadir Al-Ani: Part 1, p. 35, Ministry of Endowments and Islamic Affairs.

(32) Al-Baghdadi, Rules of Usul and Complications of Seasons, previous source, Part 1, p.5.

The third Section: the difference between the evidence and the origin:

First: Definition of the original in the linguistic sense:

First: Al-Hamza, Al-Sad, and Lam, three origins that are far apart from each other, one of which is the basis of something. The second: the Al-Haya (الحية), and the third: what was from the day after the evening, as for the first, the original is (the origin of the thing) (33), and the original is below everything and its collection of assets (34), (and the origin): the bottom of the thing is said to sit at the origin of the mountain, then talked more until it was said: the origin Everything is what the existence of that thing is based on, so the father is the origin of the child, and the river is the origin of the table (35), and the origin of the thing originally investigated his research until he knew its origin and the origin of the thing made it a fixed asset upon which is structured (36).

And by tracing the meaning of the word "origin" that I found, it is also used to mean several other meanings, including (37):

- a. Origin: Meaning the bottom of a thing, it is said to sit at the origin of the mountain (38).

(33) IbnFaris, Mu'jam al-Maqayyat al-Lula, previous source, Part 1, p.109.

(34) IbnManzur, Lisan al-Arab, previous source, Part 11, p.16.

(35) Al-Zubaidi, Taj Al-Arous, previous source, Part 27, p. 447.

(36) See: Al-Farahidi, Al-Ain, a previous source, Part 7, p. 156, and Al-Azhari, Tahdheeb Al-Lugha, a previous source, vol. 4, p. 233, and Ibrahim Mustafa, Al-Mu'jam Al-Waseet, a previous source, Part 1, p.20.

(37) See: IbnFaris, Mu'jam al-Maqayyat al-Luqla, a previous source, vol. 1, p. 109, and al-Zubaidi, Taj al-Arous, a previous source, vol. 27, 447, and Ibrahim Mustafa, al-Mu'jam al-Waseet, a previous source, Part 1, p.20

B. Origin: meaning all, it is said and taken by its origin, i.e.: with all of it he did not leave anything out of it (39).

C. Origin: meaning never, it is said what I did originally, meaning what I never did and never did (40).

D. The origin: in the sense of the truth, and from it there saying is its origin with science that rooted it in the sense of killing him with knowledge, so he knew its origin (41).

C. The origin: meaning the beginning of a thing and the initiation of it, as they say: the origin of so-and-so does such-and-such, as your saying is clear and suspended (24).

And before I leave the linguistic meaning, I must refer to the well-known linguistic meaning of the word “origin” among the fundamentalists, which I did not find mentioned among the linguists in the word “origin”: while others are based on it. The author of the approved says: “As for our saying origins, it is useful in the language what it is based on other than that. For our saying Usul al-Fiqh, it is useful for what is required of language.

(38) See: IbnFaris, Mu'jam al-Maqayyat al-Lajwah, a previous source, vol. 1, p. 109, and al-Zubaidi, Taj al-Arous, a previous source, vol. 27, 447, and Ibrahim Mustafa, al-Mu'jam al-Wasit, a previous source, Part 1, p.20

(39) IbnManzur, Lisan al-Arab, previous source, Part 11, p.16.

(40) See: Al-Manawi, Muhammad Abd Al-Raouf, The Detention on the Mission of Definitions, Edition 1, Edited by: Muhammad Radwan Al-Daih, Part 1, pg. 70, House of Contemporary Thought, Beirut.

(41) See: Al-Zamakhshari, Mahmoud bin Omar, (1979 A.D.) Asas al-Balaghah, vol. 1, p. 18, Dar al-Fikr, Beirut, and al-Zubaidi, Taj al-Arous, previous source, Part 27, p. 451, and IbnManzur, Lisan al-Arab, previous source, Part 11 P.16.

(42) See: Al-Zubaidi, Taj Al-Arous, previous source, Part No. 26, page 87, and IbnManzoor, Lisan Al-Arab, a previous source, vol. 10, page 25, and Al-Azhari, Tahdheeb Al-Lugha, a previous source, Part 1, p. 113.

It is divided into jurisprudence (43). Adoption is not specific to the sensory without the intangible, but it includes them all (44).

Second: Definition of the original in the idiomatic sense:

The meanings of the original varied among the fundamentalists, as they mentioned it in their compilations, which can be summarized as follows:

1. Means the evidence is called and intended in their saying: The origin of this issue is the Qur'an and the Sunnah, i.e. their evidence ().
2. The original is called and is meant by the preponderance, that is, on the more correct of the two matters, such as their saying: the principle in speech is the truth without metaphor (46).
3. The original is called and is meant (the continuous rule): as their saying: permitting the dead for the compelled (endanger), in contrast to the original (47).

(43) Al-Basri, Muhammad Bin Ali, Al-Mu'tadid in Usul Al-Fiqh, Edition 1, edited by: Khalil Al-Mays, Part 1, page 5, Dar Al-Kotob Al-Alami, Beirut.

(44) Zaidan, Al Wajeez fi Usool al-Fiqh, previous source, p.8.

(45) See: Al-Asnawi, Jamal al-Din Ibn Abd al-Rahim (1999 AD) The End of Al-Soul, Sharh Minhaj Al-Wasl, Part 1, p. 10, Dar Al-Kotob Al-Alami, Beirut, and Al-Zarkashi, Muhammad Bin Bahader, Al-Manthur fi Al-Qawaa', edited by: Dr. Tayseer Faiq Ahmad, ed. 2, c. 1, p. 311, Kuwaiti Ministry of Endowments, and Al-Mardawi, Ali bin Sulaiman al-Hanbali (2000 AD) al-Taqrir al-Tahrir Explanation in Usul al-Fiqh, edited by Dr. Abdul Rahman Al-Jibreen, d. Awad Al-Qarni, Dr. Ahmed Al-Sarrah, vol.1, p. 152, the publisher, Al-Rashed Library. , Zaidan, Al-Wajeez fi Usool al-Fiqh, a previous source, page 8, and Ibn al-Najjar, Muhammad bin Ahmad bin Abd (1997 CE), Explanation of al-Kawkab al-Munir, ed. 2, Edited by: Muhammad al-Zuhaili, Nazih Hammad, Part 1, p. 85, Obeikan Library, vol.1, p. 39, And Al-Jizani, Muhammad Ibn Husayn, Milestones of Usul Al-Fiqh, Edition 5, Part 1, Page 22, Dar Ibn Al-Jawzi

(46) The same sources.

(47) The same sources.

4. The original is called the standardized image (48).

5. The original is used and is intended to be (Al-Mustahab), so it is said: The principle is the clearance of liability, that is, it is accompanied by the absence of the liability from engaging in something until proven otherwise (49).

6. The original is used and it is intended to worship, so it is said: Purity is required by the departure of the outside, in contrast to the original (50).

7. The original is used and is intended to be the most dominant in the Sharia (Islamic law), and that is only possible by extrapolating the sources of the Sharia (51).

8. The original is used and it is meant: the way out, as the hypotheses say the origin of the issue from such-and-such (52).

Second: The difference between the evidence and the original:

The jurist who extracted the legal ruling from detailed evidence, there is no difference for him between the evidence and the original. Because the evidence is the origin to which he refers, so this evidence for him is called an original (أصولا) in terms of the ability to judge them. Thus, there is no difference between these two terms for him.

But the difference between the evidence and the original appears for the fundamentalist whose material in the deduction is the total evidence, depending on the difference in looking at the same ruling and its proved from one side and knowledge of it on the other side.

(48) The same sources.

(49) The same sources.

(50) Al-Zarkashi, Al-Bahr Al-Muhir, previous source, Part 1, p.

(51) Previous source.

(52) Previous source.

Evidence is not called Ausola (أصولا) on the basis that it is a guide to the ruling, but it is called (evidence) only, regardless of what it led, indicated, or guided the judgment, whether it is speculative or definitive, the difference revolves around the judgment, but in terms of knowledge of this judgment from its evidence, it is right for us to use a name: evidence or source. Because both of them passed judgment on it.

Whoever thinks that the evidence reveals something by it, it does not name the evidence as to origins, and whoever thinks that it proves the rulings calls it Ausola, and after we have presented a statement on this issue and through what has been revealed from the uses of the word origin in linguistic and idiomatic definitions it becomes clear that the evidence can be called an original and the original is called evidence, and he witnessed the saying In this place for those who say: The origin of the matter is the Almighty saying: "Those who consume interest cannot stand [on the Day of Resurrection] except as one stands who is being beaten by Satan into insanity. That is because they say, "Trade is [just] like interest." But Allah has permitted trade and has forbidden interest. So whoever has received an admonition from his Lord and desists may have what is past, and his affair rests with Allah. But whoever returns to [dealing in interest or usury] - those are the companions of the Fire; they will abide eternally therein" (Al-Baqarah: 275). Thus, to demonstrate the legality of the sale, for example, they refer to the origin of the issue and bring evidence. Evidence is named after the four originally mentioned; because the original is what others derive on, and the signified is based on the signifier (53).

(53) Amir Badshah, Tayseer Al-Tahrir, previous source, Part 3, p.2

It appears from the foregoing that the evidence is used and intended as a basis for legislation. Because people's knowledge of the legal rulings was derived from them, and from them, the rulings were taken, but the difference between them is limited to the fact that the original is more general than the evidence as mentioned above.

The second topic: the source and the origin

The first Section: The Source:

1. Defining the source in the linguistic sense:

The Arabic letters (saad, the dal, and the ra) are two correct origins, one of which indicates the difference of its water and the other is the source of man's chest and others. The first: their statement comes from water, and it comes from the country, if it was its water, then specifies it. And it is said: it was issued from the country, and as for the other: the breast is for a person, and the plural is breasts (صدور). Allah Almighty said: "To Him belongs all that is in the heavens and on earth: for verily Allah, - He is free of all wants, Worthy of all Praise " (Al-Hajj: 64) ().

And the source: the position of the issuance, which is the departure, and the sources of the verbs (55), and the source: the origin of the word from which the vocations of the verbs come from. Its interpretation is the sources were the first speech, such as your saying to go, listen, and memorize, but the actions were issued on them.

(54) Al-Razi, Mukhtar As-Sahih, previous source, Part 1, p. 375.

(55) Al-Zubaidi, Crown of the Bride from Al-Qamous Jewels, previous source, vol.12, p. 300.

The verbs (ذهب , ذهابا), listened and memorized 56(), and (breast) the chest: the upper and the first of everything, so that they would say: the chest of the day and the night, and the chest of winter and summer and the like. They say taking the matter at its source, i.e., first and foremost matters, and things by their chests in Arabic (57).

The pre-emptive chest was then borrowed to the one who presented the thing, such as the (صدر) head of the channel, the council, the book, and the speech. And if the word chest is used to mean it was necessary to leave, you would say that the camels came out to the water in front. The word (صدر) in Arabic also means the ta'ifah(selected of) a thing (59), and through what we have presented of the linguistic definitions it becomes clear to us that the chest refers in the language and is intended by three meanings:

The first: first of all.

Second: Back.

(56) See: Al-Zubaidi, Taj Al-Arous, a previous source, vol. 12, p. 300, and al-Azhari, Tahdheeb al-Lugha, a previous source, vol. 4, p. 189, and IbnManzur, Lisan al-Arab, a previous source, vol. 4, p. 445.

(57) See: IbnManzur, Lisan Al-Arab, a previous source, Part 4, p. 445, and Al-Farahidi, AbiAbd Al-Rahman Al-Khalil Bin Ahmed, Al-Ain, edited by: Dr. Mahdi Al-Makhzoumi and Ibrahim Al-Samarrai, vol. 7, p. 74, Dar and Library of Al-Hilal, and Al-Azhari, Tahdheeb Al-Lugha, previous source, Part 4, p. 188.

(58) Al-Isfahani, Al-Hussein Bin Muhammad, Vocabulary in Gharib Al-Qur'an, Edited by: Syed Kilani, Part 1, p. 276, Dar Al Maarifa, Beirut

(59) Al-Zubaidi, Taj Al-Arous, previous source, part 12, p. 293.

Third: The Selection of a Thing.

The truth is that the first meaning includes the second and third meanings. Returning is to the first thing and the sect of the thing also refers to the first thing, so the first meaning is what matters to us, and accordingly, the source is: the reference to which it refers and everything that is issued about something is due to it, the first is a source for the second.

2. Defining the source in the idiomatic sense:

The source can be defined conventionally according to what this word is added to, and therefore its definition differs according to what is added to it, but in general, it does not deviate from the general meaning of the linguistic definition of being the reference for a thing. Therefore, the definition of the sources is used to refer to legal rulings: it is the legal evidence from which the legal rulings are derived (60).

If we follow the term of the source (المصدر) by the fundamentalists, we will find it is used and what they mean by it is the evidence (61). Dr. Zaidan says: "Sharia rulings (Islamic laws) are only known by the evidence established by the street to guide those charged with them and to guide them to them. The rulings are synonymous names and the meaning is one." (62).

(60) Al-Zuhaili, Wehbe, Fundamentals of Islamic Jurisprudence, Part 1, p. 417, Dar Al-Fikr.

(61) Al-Zuhaili, Fundamentals of Islamic Jurisprudence, previous source, Part 1, p. 417.

(62) Zaidan, Abd al-Karim, Al-Wajeez fi Usool al-Fiqh, ed. 6, p. 147, Cordoba Foundation.

Perhaps the researcher faces an objection that this is comprehensive evidence and not absolute evidence, for the source for fundamentalists is the total evidence. Thus, the noble Qur'anic verses are evidence and not sources. As for the Qur'an, it is a source and it is correct to say evidence, but it is comprehensive evidence. And the original is used in one meaning, as will come later.

As for saying that the verse in the place of inference is used as partial evidence, while the Qur'an is considered a source, this is a clear matter and no one can deny it except that when the evidence, the source, and the original are used within the level of one authoritative and it will appear as it no longer affects. Since what is important to us here is to determine the levels of authenticity in preparation for the inclusion of the mind within one of them in every position of the mind that it represents.

After this, I can say that the evidence is used in the meaning of the source as long as the legal ruling is taken from the evidence and branched from it. We said that the source is what is taken from that thing as stated above, so it is correct to say that evidence sources, so it can be said that they are: evidence of rulings and sources of rulings.

The second Section: the difference between the evidence and the source:

We talked about the source and the evidence that they are two names. Thus, it is correct to call the word evidence and we want it to be the source and the opposite is true. The truth is that this matter does not differ much from the jurist who deduced the legal ruling. Because the evidence is considered sources for him in the process of deduction, there is no difference practically or theoretically in the matter, because the evidence is called sources for him in terms of which the ruling is taken from it, and there is no difference between these two words for him except I see the difference that appears to the fundamentalists in two ways:

The first: in terms of looking at the same ruling and proving it.

And the second: in terms of looking at knowledge.

With regard to looking at the same ruling and proving it, considering that the ruling is the fruit of legislation. Thus, the word evidence is not used for the term sources nor it is correct to call it that because the evidence is what guides you to the ruling and leads the mujtahid (Muslim scholar who gives a jurisprudence opinion in some Islamic law) in the correct consideration of it to the Sharia ruling, and this does not apply to what we have explained in. The meaning of the source in language and idiomatically. Since the ruling was not taken from evidence until it is called a source, it is proven before the revelation was revealed and before the mujtahid looked at it.

Perhaps this differentiation between the evidence and the source from this authority is based on a fundamental issue, which is: Is the legal evidence proving the rulings or revealing them? This is, in fact, a guideline for the total evidence established for the ruling. Therefore, it is permissible to call it (the source), but whoever says that the evidence is the one who confirmed the Sharia ruling, this use is valid for him, which is to call the evidence (the source) (63).

In looking at knowledge about it, this use is valid, which is to give the name of the source to the evidence because the result is the same, which is that knowledge was derived from it and from which it was taken,

Based on the aforementioned, it is decided that whoever thinks that the legal evidence (**revealing the ruling**) and its manifestation is not correct to name the evidence as a source, and whoever thinks that the legal evidence is (**confirmed for the ruling**) then it is correct for it to call the evidence a source (64).

Accordingly, the words of the fundamentalists who named the source the name of the evidence. Hence, the name of the evidence as to the source. Since the evidence is the reference to the legal ruling and its origin, and it is from it that the legal rulings are issued. According to what is correct from which the legal ruling is proven by the evidence and it is decided that the evidence is the reference of the rulings and from which it is issued which corresponds to the validity of the linguistic expression of the source word. Also, it is the reference and principle of the thing. It becomes clear that the correctness of naming the evidence as to the source.

(63) Zaidan, Al Wajeez fi Usool al-Fiqh, previous source, p. 147.

(64) Zaidan, Al-Wajeez fi Usool al-Fiqh, previous source, p. 147, p. 148.

The third topic: The Similarity and the Indication

The first requirement: the Similarity

First: Defining the Similarity

In the linguistic sense:

(Qarn): The qaf, the ra, and the nun are two correct origins (stem of the word) one of which indicates the combination of something into something. The other is something that arises with strength and intensity. In courage and century, the same as you in a year and their measure is the same (65). The Qur'an is to associate two dates that you eat and the Qur'an: to associate his Hajj with his life and the Qur'an as an action, meaning it is effective from the conjunction (66).

Second: Defining the Command in the idiomatic sense:

Idiomatically is indicating the required (67).

(65) Al-Jarjani, Ali bin Muhammad, Tariffs, ed. 1, p. 223, Arab Book House, Beirut.

(66) See: A Group of Scholars of the Ottoman Empire (2011 AD), Journal of Al-Ahkam Al-Adliya, edited by Bassam Abdel-Wahhab, Edition 1, Article: 1741, Part 1, p. 466, Dar IbnHazm, Beirut.

(67) The Jurisprudence Encyclopedia (1992 AD) Published by: The Ministry of Endowments and Religious Affairs, Edition 3, Part 33, pg. 156, Kuwait.

(68) Al-Shawkani, Muhammad bin Ali (1999 AD), Guiding the Stallions to Realize the Truth from the Science of Usul, Edited by: Ahmed IzzoAtiyah, Part 1, P22, Dar Al-Kitaab Al-Arabi.

(69) Al-Thanawi, Scouts of the Terminology of Sciences and Arts, previous source, Part 2, 1415.

The Journal of Judicial Rulings defined the conclusive command as the most certain way (68).

And its definition came in the Kuwaiti Jurisprudence Encyclopedia: What indicates what is meant without being explicit (69).

The second Section: the difference between evidence and command:

After we explained the difference between the evidence and the source and the difference between the evidence and the original, we arrive in this place to show the difference between the evidence and the command. It can be said through the definition of the evidence that the scholars have known as what can be properly looked at to a knowledgeable wanted person or knowledge of others (70).

Reflecting on the previous definition of the command, we find that the command bears in itself the meaning of evidence, and to confirm the correctness of the saying, the mentioned the definition of Imam al-Thanawi who knows it as: “the indicating something rather than the situation” (71). They share the power of significance, and they both influence the text, so they are linked to the text and influence it, and many rulings change according to the changing of the pure evidence.

(70) See: IbnFaris, Mu'jam al-Maqayyat al-Lajwah, a previous source, Part 1, page 139, and al-Zubaidi, Taj al-Arous, a previous source, vol.10, page 75, and IbnManzur, Lisan al-Arab, a previous source, vol. Pp. 158.

(71) Al-Zamakhshari: Mahmoud Bin Omar, Al-Faiq in Gharib Al-Hadith, Edited by: Ali Muhammad Al-Bedjaoui, Part 1, p. 289, Dar Al-Maarifa, Lebanon.

(72) Al-Manawi, Muhammad bin Al-Raouf, Detention on the Mission of Definitions, 1st Edition, Edited by: Dr. Muhammad Radwan Al-Dayeh, C1, p. 90, House of Contemporary Thought, Beirut.

The researcher can indicate it through the linguistic definition and naming it by command for its association with the text, and what is confirmed by the definition of Imam Al-Thanawi in his definition of the command that it is: “ indicating a thing, not by the situation.” The reasoning is his saying: (not by the situation).

As for the evidence, it is not required that he accompanies something and indicates it where he comes independently from the conjunction with something. We can feel the difference between the evidence and

the evidence, the evidence is what is proven by the legal ruling, while the context is what confirms the legal ruling, so the evidence is to find the ruling and the presumption to confirm it.

The third Section: the Indication (Emara)

The indication is dealt with in this position on the occasion of its connection with the similarity in terms of meaning, and this will appear in the following:

First: The definition emirate in language: the sign, it says, “Make between me and you a sign and a sign, and the signed road (72), the path of the road with its single features, is a sign (73).

Second: The meaning of (Emara) indication idiomatically:

Al-Manawi says: The **(Emara) indication** is what it is necessary to know about the existence of the signified as clouds concerning rain (74)

Third: The difference between the similarity and the indication:

The similarity and indication are among the interrelated arguments between them. This overlap forces us to distinguish, explain the difference and the function to reach the goal, which are the ranks of authenticity, which is the purpose of this study. If we return to the definitions and the work of each one of them, we will find:

Both of them share in the fact that they were not at the origin of the situation, but rather their presence was associated with something that indicates it. They have shared in their separation from the evidence in this position, except that they differ in influencing the signified and the accompanying thing.

The indication indicates the existence of a thing without occurring an issue in it, and it is possible to represent that by clouds on the presence of rain as stated in its definition, and its predominant influence in the legal judiciary is limited to its benefit in conjecture and does not reach the final.

Imam Al-Zarkashi says: “The speakers singled out the name of the evidence with the excerpts of it from the auditory and mental. As for those who only benefit from conjecture, they call it a sign.” (75)

As for the similarity, it affects the text, and its implications may be definitive or speculative according to the strength of the presumption, and accordingly, its influence and scope are more general and comprehensive.

(75) Al-Zarkashi, Al-Bahr Al-Muhir, previous source, Part 1, p. 35.

Conclusion of the research and its most important results:

I thank Allah Almighty for helping me to complete this research, and I supplicate to Him, the Almighty, to make it useful in this world and a reason for forgiveness in the hereafter. And the general nature of its rules and the breadth of its applications. . Therefore, it is necessary for the one working in it to study it and continue day by night in understanding it and seizing every bit of information from it.

What has been confirmed by the researcher while he is trying to clarify his position on the ranks of evidence in the fundamentals of jurisprudence is that by making comparisons between (the source, the original, the similarity and the indication) and between the evidence that it can be said that the level of the evidence ranks is as follows:

Level one:

The original, the source, and the evidence came to the first level, where the word evidence can be used on the source and the original, except I said that the original is more general than the evidence, so every evidence is the origin and not the opposite, but this difference in terms of general and specific does not affect practice as far as we find it Verbally, that is why I did not arrange a difference in the level, and I put everyone on the same level as I did not differentiate between the evidence and the source with what I think of the sayings of the people of the language, except that among the fundamentalists are those who release the evidence and want the source.

1. The second level: It includes the similarity:

This level is used in the form of the similarity for what we have presented regarding the fact that the evidence is confirmed and not proven to the ruling, and that it carries in its nature as presented the meaning of the evidence except that it does not prove the Sharia ruling, and it is conditional on accompanying something, and it indicates it so its rank was relegated to the evidence and came to the second level.

2. The third level: (Emara) Indication:

The indication is used to the third level because it does not bear the quality of evidence in its nature and was not at the origin of the situation as mentioned above, rather its presence accompanied the existence of something and indicates it, and its rank was delayed at the third level because it indicates a thing without something happening in it and its influence is often in the legal judiciary and its implications do not reach to cuttings.

Allah Almighty knows best, and I pray and greet our noble Prophet, his family, and all of his companions.

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