



The Fundamental Lesson “From Epistemology to Pedagogy”

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Abstract:

It is unreasonable to teach a certain branch of knowledge, such as jurisprudence principles- that is considered to be unique in comparison to other Islamic fields of study- without taking into account its epistemological and methodological characteristics and its epistemological nature. Thusly, it is necessary to be completely aware of its epistemological structure, so that you can be conscious of the appropriate didactic methods to approach or teach it; taking into consideration achieving a total harmony and suitability between its nature as a cognitive system and the way it should be approached and taught to students.

This article is mainly going to answer and illustrate how Jurisprudence Principles science is taught and what this science is in connection to its major features.

Key terms: Methodology – Epistemology – Pedagogy – Didactics – Knowledge –Evidence.



الدرس الأصولي، من الإستيمولوجيا إلى البيداغوجيا

الملخص:

من المتعذر بمكان أن ينجح تدريس علم من العلوم في غفلة تامة عن خصائصه المعرفية والمنهجية وطبيعته الإستيمولوجية. ويتأكد هذا المطلب أكثر إذا تعلق الأمر بعلم منهجي بامتياز، كعلم أصول الفقه، الذي تفرد عن سائر العلوم الإسلامية بجمعه بين الاشتغال العقلي والنقلي في الآن نفسه.

ومن ثم كان لزاما على كل من رام تقريب هذا العلم أن يتفحص بنيته الإستيمولوجية، حتى يكون على بينة من السبل الديدانكتيكية الأكثر ملاءمة لمقارنته وتدريسه، وذلك بناء على القاعدة التربوية المقررة عند أهل هذا التخصص، والتي لخصوها في حتمية التوفيق والملاءمة التامة بين النسق المعرفي ومنهجية تدريسه وتقريبه للمتعلمين.

وهذا ما يسعى إليه هذا المقال، من خلال الكشف عن أهم خصائص هذا النسق المعرفي، مما يمكننا من رسم المحددات المنهجية الموجهة للعمل الديدانكتيكي في الدرس الأصولي.

الكلمات المفتاحية: أصول الفقه - الإستيمولوجيا - البيداغوجيا - الديدانكتيك - المعرفة - المنهج



Introduction:

Usul Al-Fiqh is a methodological science par excellence. This means that the methodological characteristic is inherent in it. There are several methods control the construction of Al-Maarifa Al-Usulya, whether in terms of its external or internal structure. Ergo, it is crucial to be aware of the approaches to science to determine its teaching methods. Concisely, any instruction process, which does not stem from the characteristics of this science and its cognitive nature, is not suitable to meet the needs of its practitioners and learners, hence violating its peculiarity. Furthermore, doing this may make it arduous to be aware of the essence of this science and its basics. Thence, the methodological necessity requires addressing this issue from various angles as follows:

- 1: Addressing the external approaches to the Jurisprudence principles science.
- 2: Shedding light on its internal approaches.
- 3: Addressing the nature of its cognitive contents, taking into consideration the impact of all of this on the pedagogical aspect associated with the teaching process of this science to the students.

I: The External Approaches to Jurisprudence Principles Science

The external approaches to science stand for its external logic, i.e., the methods used by scholars to classify the subjects of study targeted within their works. Obviously, the subjects targeted in the scholars' books are never constructed or classified for no purpose, but these



subjects are classified and constructed based on a precise vision. Thusly, it is prerequisite to raise the following questions:

- What will the result be if we know the authorship procedures of Usul Al-Fiqh?
- And what we may benefit from knowing this?

Let's firstly set out all the methods used by scholars to construct the fundamentalist knowledge and demonstrate them to discern how the didactic aspect is managed within the fundamentalist lesson.

I.1: The Method of Jurists

The method of jurists is a production of the writings, which are based upon their own perspective, of Hanafi School followers. Their perspective is different to the other schools; particularly their view to the purposes of and the way Usul Al-Fiqh science must be constructed. The outstanding features of this method include the following¹

The perspective of the followers of this method is mainly constructed on the base of their Imams' previous perspectives. The followers extrapolate these perspectives- through examining the rulings of the individual cases- and come out with guiding total regulations of the jurisprudential process. Thus, any perspective, that is consistent with their former Imams' perspective, is accepted, whereas those perspectives, which are in contrast with their Imams' perspectives, are refused. Among the examples related to this point is the following:



For instance, let's say that “A speculator and the money owner are in disagreement. Both of them have evidence to offer to the judge. However, the two persons– the speculator and the money owner– have evidence with a different date. In this case, the one with evidence dated newly (for example, in February) is the one whose evidence is stronger in comparison with the other, whose evidence is dated too early (for instance, in January). This is the method used by scholars of fiqh rulings to solve all the methodological problems. Their method is based on and is inherited from their previous Imams', whom are of the same school (the Hanafi School), rulings of individual cases”²



The example above concretely clarifies the method the Imams used to determine the principles of the Islamic Jurisprudence. They did this through examining certain rulings of the partial cases. Consequently, the principles of jurisprudence, for them, are subject to the rulings of the individual cases, as well as these principles are constructed on the foundation of these rulings. Additionally, it is acceptable to expose these principles to Ijtihad process. This means that everything they do is done to serve the preconceived rulings established by Hanafi School, and to prove that these rulings are based upon total principles.

The method of jurists is characterized by the abundance of plenty jurisprudential examples and evidence, which are of service to the rulings of the individual cases. Moreover, all books, that are classified to be relevant to the aforementioned rulings, are full with several practical examples, which are the source and the reference they use to infer the principles of their Hanafi Madhab.

The method of jurists mainly tends to study the concepts in their smallest elements due to the fact that the jurisprudential principles set up by Hanafi School are historically emerged too lately in comparison to the emergence of the rulings of the individual cases derived of the same school. Consequently, Hanafi School followers seek to make the jurisprudential principles be in harmony with the rulings of the partial cases, so that these principles avoid the possibility of being in contradiction with rulings of the individual cases.



For instance, for Hanafi School, the Condition is divided into five types, while the Reason behind setting up certain rulings is separated into multiple sorts. However, the tendency to study things in their smallest elements is something so outstanding within their works. The subjects within these works are arranged as follows:

1. A preamble to Usul science covering its definition, whether targeting it as a whole or in its smallest elements.
2. The evidence, including Qur'an, Sunnah, Consensus, analogy and connotations.
3. Defining Laws, Status Rulings and all the rulings of the partial cases related to them.
4. "Ijtihad", "Taqliid", "Ta'arud" and "Tarjih".
5. Competence and its types and impediments.

I.2: The Method of Al-Mutakalimun

This method is also called Shafi'i method or the method of the crowd. It is characterized by many features including the following:

- Unlike the Hanafi School followers, who believe that fiqh rulings are derived from "Al-Furu'a", Al-Mutakalimun do not emphasize that fiqh rulings are emanated from details nor these rulings are set up on the foundation of details. This has made Al-Mutakalimun to sometimes be in contradiction with their school. The example below indicates this clearly:



For instance, "Al-Amidi, who is a follower of Shafi'i School, favors the authenticity of silent unanimity, that is Hanafi School based, despite that Imam Shafi'i has never considered silent consensus as evidence" ³

- The paucity of Jurisprudential examples and evidence. It is like that because of the aforementioned characteristic of this method, whether in terms of the logical reasoning or the purely theoretical construction. However, this does not mean that there are no examples provided in their books, but rather there are some of them, which have not been provided for the sake of explaining rules, but instead they are provided for the sake of illustration and clarification.

Imam Al-juwayni says: "We provide the examples for the purpose of exposing the fiqh rulings under refinement and practice. Otherwise, the scholar of jurisprudence principles must not, when it is about the speculative legal inquiries, neither resort to the doctrines of those who specified details nor be adhered to a certain specific Madhab⁴

Imam Juwayni, here, is trying to justify the paucity of examples. He does this based on his vision of the essence of the works of the scholars of principles of jurisprudence, shedding light on the fact that it is not safe to use the method of employing the usage of Al-Furu'a Al-Fiqhya as a foundation to set up fiqh rulings. He thinks that Al-Shawahid Al-Furu'aya are not suitable to be provided except if this is done for the aim



of practice or providing them as a reference. However, this is only done after the evidence is already set up.

- Among the prominent notes included in the books of the followers of this method is the matter of touching some matters such as judging actions as good or bad, being grateful to God's bounties, in addition to other matters that can be considered as more closer to be a part of theology than to Usul science.
- Shafi'i School followers' works are also characterized by the plenty of theoretical assumptions and logical analyses, as well as touching issues, which are not appropriate to be used as a foundation to a certain work. This sort of issues may involve the following: setting an obligation to the non-existent, in addition to other philosophical issues, that have made these books to be full of debates and exchange of views due to the fact that there is a trend to mental reasoning.

The subjects of study within this type of books are arranged as follows:

1. Introductions: these introductions include subjects such as mandatory punishment, proof and other theoretical and logical subjects of study.
2. Rulings: This involves matters such as commitment, interdiction, recommending, reprehension, validity and invalidity.
3. Evidence: This includes Qur'an, Sunnah, consensus, analogy and so on.



4. And subjects of study concerning Ijtihad, imitation and giving preferences.

In addition to the methods above, there are many other methods employed in fundamentalist authorship including the following:

I.3: The Method that combines both Shafi'I and Hanafi Methods

This method is mainly concerned with the fundamentalist authorship. It integrates between the method of Al-Mutakalimun and the Hanafi method. This method focuses on making the methodological rules recognized and supported by a reference, and finally comparing between Hanafi school scholars' opinions and the opinions of Al-Mutakalimun. Then, this process is followed by providing some certain jurisprudential details, taking into consideration the fact that these details are practical examples of the demonstrated rulings.

This method amalgamates between the characteristics of the two methods forasmuch the relationship between the theoretical aspect, that characterizes Al-Mutakalimun, and the practical aspect, that distinguishes the Hanafi Method, is a basic relationship. Furthermore, the paucity of practical examples, that characterizes Al-Mutakalimun Method, and the excessive tendency to employ the theoretical aspect may lead to pure abstraction 'Tajrid'. Additionally, omitting the usage of theoretical aspect may also lead to sectarian fanaticism.

Additionally, the scholars' books shaped with this method are characterized by a kind of "exaggerative complexity and abridgement.



This makes the purposes of these books to be difficult to be understood; consequently the readers find themselves obliged to use a dictionary”⁵

I.4: The Method of Applying the basic Rules to Individual Cases

This method is typified by mentioning the disagreement that may occur between the scholars of fiqh rulings about specific issues. This method focuses on providing the evidence of both parties, considering the jurisprudential effects of this disagreement. Nevertheless, the aim behind this style is to apply the basic rules to individual cases. According to this method, the issues that have been solved or are considered to be a result of a difference in expression or words used, such as the following Arabic words: “Fard” and “Wajib”, are never given any attention.

Therefore, this method has clearly taken into concern the practical aspect. This is done through indicating the motives of the disagreement stated above, as well as the justifications and the evidence provided by each team of scholars, taking into consideration the results may be learnt from it. This method has tried the most to neither overcome focusing on the abstractive aspect nor neglect the jurisprudential details, which play an essential role in determining the meaning and the intention targeted.

I.5: The Method of Imam Al-Shatibi

When you consider Al-Shatibi’s book “Al-Muwafaqat”, you notice that he never wrote about fiqh rulings in the same way as some other scholars did. Rather, Imam Al-Shatibi’s style is marked by the act of rearranging the fundamentalist subject based on a new vision in the



light of considering the purposes of Sharia Law. Imam Al-Shatibi opens his book with a collection of introductions, which are seen as postulates for him. These introductions indicate the framework he followed. This makes his book characterized by a methodological unity. "The unity is manifested in the way he edited the fundamentalist subject, whether in terms of explanation, triumph, objection, discussion or criticism"⁶

Imam Al-Shatibi's unique character made his writings to be methodologically accurate. He is depicted as "an interpreter of fiqh rulings, a jurist, a linguist, Al-Muhadith, the pious, and as an ascetic. He is influenced by Ibn al-Fukhar, by Abi Abdullah Al-Balnasi and by Abi AL-Qasim Al-Sharif AL-Ssabti...etc"⁷. Obviously, there is a kind of diversity that both has characterized the ancient Imams and professors and left an impact on their students, who are engaged in this methodological science. Moreover, the features that distinguished Imam Al-Shatibi's way in explaining the fiqh rulings are manifested in his writings that are free from any verbal sparring or logical arguments.

Imam Al-Shatibi reckons that: "Attempting to examine everything and seeking knowledge about it is the occupation of philosophers, to whom the Muslims owe nothing. The reason is their occupation with things that go against the Sunnah. Thus, following them in matters that have this nature is a great error and amounts to turning away from the right path"⁸.

However, Al-Shatibi's words must not be elaborately comprehended in terms of philosophy, but his words must be understood within their



historical context, so that we don't indulge in something he never mentioned in his works. Thusly, if the core and the spirit of philosophy are based on reason and thinking of all that existing things around us, it is unfair to say that Al-Shatibi holds a contradictory view against this, because simply the principles of contemplation is an authentic Islamic principle. The author of the book "Unwan Al-Ta'ariif bi-Asrar Al-Takliif" refused the way philosophy is constructed, a way that makes it "difficult to absorb, difficult to conduct and difficult to seek"⁹

Additionally, the mentioned above has also been emphasized by him as follows: "The philosophers believe that the function of philosophy is to study all that exists without restriction insofar as this will lead to a knowledge of the creator and all this requires a study of evidence and all creatures"¹⁰

The word "believe" used by Al-Shatibi in this context indicates that he does not express any contradiction to philosophers. Al-Shatibi tried to warn against unintentionally involving the philosophers' method within the field of Sharia Sciences. He is strongly abided to such a principle. His book "Al-Muwafaqat" is an example of what he is trying to warn against. His book is completely free from the philosophical debate that does not lead to any scientific result or tangible results in the real life. Furthermore, for Al-Shatibi, the "Sharia Purposes" principle is the main principle employed by him in his works. He never considered the purposes of Sharia as just a subject of study or a component part of science, but rather Al-Shatibi emphasized that this principle is the essence



and core thinking. Moreover, for him, the purposes of Sharia are the thread regulator to all the topics and subjects of study he insists to touch on in his works, either directly or indirectly.

Likewise, this science has also gone through and affected by some new changes in the light of the modern era. This science has embraced two new ways followed by a set of scholars of Fiqh El-Usul:

The first way:

It is characterized by a sense of authoring in a comprehensive manner covering all the topics and subjects of study targeted in jurisprudence principles. The scholars' books, who embrace this way, are mostly constructed to be directed to university students, who study this scientific discipline. Additionally, this way is distinguished by simplicity; accurate explanation and multiple examples provided; non-being solely adhered to a specific doctrine; comparison between many different scholars' points of view; giving preference and referring to the legal applications of the rules explained.



The second way:

It is mainly employed in a set of writings targeting fundamentalist subjects of study, including analogy, consensus, pointing out a defect, abrogation and so on.

The Educational Benefits being benefited from the Authorship Methods of the Scholars of Fiqh Rulings:

- The illustrative examples play an essential function in indicating the meanings; therefore, it is crucial to use them constantly to achieve a comprehensive explanation and comprehension.
- The combination between the theoretical and the practical aspects is a prerequisite because to solely target the theoretical aspect means that students are not allowed to convey and transform the information and employ them in other situations. Too, to solely target the practical aspect and neglecting the theoretical one also leads to the lack of ability to mentally visualize or arrange the topics targeted.
- The necessity to determine and classify the purposes in terms of their fields and various levels.
- The selection of an appropriate educational content requires considering the characteristics of the segment targeted. This means that what may fit the students of advanced level may not also be suitable for students of beginner level. For instance, students of beginner level cannot apply the process of Tajrid; thusly it is



necessary to firstly provide them with a tangible knowledge to meet their mental skills and cognitive structure, hence being able to absorb this knowledge.

- The jurisprudence principles science is considered as one of the so-called 'auxiliary sciences'. This means that it plays a conjunctive function to lead to Jurisprudence. That is why, it is inappropriate to move from jurisprudence science subject to the jurisprudence principles science subject, considering the first meaning leading to the second, hence neglecting the purposes of jurisprudence principles science. In his book "Kashf Al-Dunun", Haji Khalifa has confirmed this as follows: "The auxiliary sciences must be seen as an auxiliary means leading to another scholarly discipline; therefore, these sciences must not be elaborated, because this makes them not achieve the purpose targeted"¹¹

- Looking at jurisprudence principles science from this point of view has a clear impact on all the elements of the curriculum, including all the following taking a start from the purposes reaching to the nature of the content, then the appropriate methods, and finally the accurate evaluation, that leads to the intended target, taking to concern covering all the purposes targeted.

- Taking into account the importance of the condition of functionalism when selecting the cognitive contents. The methodology of jurisprudence principles is a practical one; thus, it allows directly inferring rulings from the original jurisprudence principles, or inferring them through the process of Ijtihad or



application. The methodology of jurisprudence principles is a productive, mellow and an interesting one”¹².

- Therefore, students should only study what is emphasized to have a clear practical result instead of studying the issues, which neither play any auxiliary role to achieve the goals targeted and nor have any impact on the scientific formation of students.
- Avoiding sectarian fanaticism while teaching students, because it is something too incompatible with the nature of this science. Students must be trained to explain and compare all the points of view, as well as giving preferences based on the evidence provided, so that the process of making a choice can be described as a scientific one, otherwise this can only be a pure imitation.
- It is advisable to employ all the various methods that fit the nature of this science, including the deductive and inductive methods and others, so that students can acquire all the skills that qualify them to develop a fundamentalist talent.
- Providing students with hypothetical situations to make them face cognitive obstacles, which require a deep thinking, comparing points of view and employing the most appropriate evidence to solve them.
- The necessity to indicate the relationship between jurisprudence principles and the rulings of individual cases, so that we decrease the rift between the jurisprudence and Usul.
- Diversifying the scientific knowledge sources. This can be done through amalgamation between language, Hadith and Fiqh.



This is important because achieving the fundamentalist talent cannot be done unless these elements are amalgamated.

- Avoiding linguistic complications and delivering the subject in an appropriate manner to students. The illustrative examples delivered to students must be constantly renewed and linked to the real-life situations.
- The evaluation must be performed over all the subjects of study targeted (such as, rulings, evidence, Ijtihad, and so on), so that the cognitive aspect is successfully achieved.
- Varying the assessment tools and its targeted aspects instead of being limited to the pure theoretical aspect. Thusly, students' capacities to apply the general rules to the particulars and individual cases are reached.

II: The Internal Methods to Jurisprudence Principles Science

The internal methods to science stand for "the internal logic", which organizes the fundamentalist subject and its relationship to its targeted topic. These methods are the internal engineering layout, on which the jurisprudence principles science is based"¹³. The reason behind touching on this aspect is centering about its great pedagogical benefit. To teach any science, it is prerequisite to take into account its characteristics and the nature of the methods it is based on. In this way, the purposes of this science are achieved, hence achieving a harmony between the nature of this science and its teaching methods.



The science of jurisprudence principles is mainly established on the base of the following methods:

I.1: Inductive Method

It is one of the most important methods used in jurisprudence principles science. It refers to "Applying a ruling to particular matter because it applies to the universal"¹⁴

. The Scholars of Fiqh rulings apply this method to demonstrate several matters. It is the most used by scholars of jurisprudence principles when it is about making an inference. However, the scholars don't only use this method to apply it to certain specific subjects of study and exclude other ones, but they rather apply it to all various subjects of study and issues. According to these scholars, Inductive method is divided into two types: complete and incomplete induction.

Complete Induction:

It refers to "reaching a general ruling by looking at all particulars of a universal and results in certain knowledge"¹⁵. For Imam Al-Zarkashi, complete induction is very useful to reach firm ruling and certainty, justifying this in his book 'Al-Bahr Al-Muhith' as follows: "if a ruling can elaborately be applied to the smallest parts of an individual case, this means that it can also be applied to this individual case as a whole"¹⁶. This means that, if a set of individual cases can be demonstrated in terms of their smallest parts, then it is logically possible to demonstrate them as a whole. The following example can make this clearer: for instance, prayer



is divided into two types, it is either an obligation 'Fard' or as a supererogatory prayer. However, whatever the type of prayer is, purity is still the most important condition to perform a prayer.

Incomplete Induction:

Incomplete induction stands for "A ruling is reached by considering most of the particulars"¹⁷. According to Imam Al-Razi, this type of induction does not lead to firm ruling unless it is supported by an independent specifying text. Al-Zarkashi sees that incomplete induction emphasizes probability. Both of these scholars have something in common concerning this point. They believe that incomplete induction does not lead to firm ruling. However, Al-Assnaoui believes that it is necessary to be aware of incomplete induction. In his commentary about Al-Razzi's statement, Al-Assnaoui explains his point as follows: "The variance of assumption is taking a place here due to the plenty and the paucity of the extrapolated particulars, thusly it must be resorted to the Messenger Mohammed's (PBUH) saying; 'Our ruling is based on what has the quality of being evident'¹⁸.

The inductive method is the cornerstone of inference for the scholars of jurisprudence principles. The scholars have employed and targeted the types of induction in a set of their writings. They also illustrated which type of induction emphasizes a firm ruling and which type it does not emphasize this. Inductive method had a central role in the process of constructing jurisprudence principles science, either during the stage of establishment or during the development stage.



The scholars of jurisprudence principles use inductive method in so many things, including the extrapolation of generalizations concerned in the legal texts. They noticed that all the generalities are limited (distinguishing some cases of a general by a ruling that does not apply to other cases), consequently, they came out with an idea that the indication of the general on its particulars is considered to be ambiguous. Inductive method is also employed by these scholars in the process of interdependence, i.e., that a ruling is confirmed when a certain aspect is confirmed, but does not apply when that aspect is absent.

Inductive method is largely used to construct and set up the fundamentalist rules, which are basically established on the base of examining the individual cases and the rulings of the individual cases to infer the major rules that organize the fundamentalist rules. In brief, where there are rules, there is inductive method.

Imam Al-Shatibi is one of the most scholars who used inductive method, particularly while seeking to set up and classify the purposes of Shari'a. Al-Shatibi also uses the term induction in his book "Al-Muwafaqat", including the following example extracted from his book: "The principles of jurisprudence are firm rulings not ambiguous, because these principles are derived from the totalities of Shari'a. Consequently, anything, which is derived from the totalities of Shari'a, is deemed to be a firm ruling"¹⁹. Induction is largely used to infer the firm rulings from the ambiguous evidences. This is done through examining and tracking the particulars, without wholly depending on them because "Instead of



being only counting on the particulars, induction is mainly based on total extrapolations, taking into account indicating the text evidences of the particulars extrapolated in parallel to being supported by a part of hadith/ Quranic verse (one portion of its text indicating the full text) which indicate the purposes of Qur'an and Sunnah"²⁰

However, it is prerequisite that the outcome to be reached by inductive method must be frequent, for instance making things easy, removing hardship, preventing harm and harmful response, demonstrating the total purposes of Shari'a are examples of the frequent outcome.

The most benefits reached by inductive method are:

- The combination of variant individuals under one general rule, so that we do not waste so much time.
- The outcomes reached are given a sense of reliability and a sense of an accurate scientific nature.
- The generalization of a ruling to be applied to all the individuals, so that a moving from dealing with the rulings of individual cases into dealing with essential evidences and generalizations is occurred.

I.2: Deductive Method

The inductive method is a theoretical method, which proceeds from absolute generalizations, of which the particulars are



inferred”²¹. Imam Al-Shafi'i is one of the scholars who employed this method in setting up jurisprudence principles.

In comparison with inductive method, that is characterized by moving from specific observations to broad generalizations, deductive method is a top down method. Al-Mutakalimun employed this method the most, in which they set up the total evidences without resorting to the particulars, and then they derived a set of appropriate jurisprudential details from them. This means that they proceed from total rules, that are considered to be absolute for them, “taking into consideration the condition that these total rules must be accurately supported by arguments”²². Thence, these rules and the total rules have nothing to do with the rulings of the individual cases or the particulars because the fundamentalist system –in the light of this perspective– is “only containing the representation of the issues instead of the issues themselves”²³. Ergo, for Al-Mutakalimun, the jurisprudential individual cases are only used and playing the function of representing something or as an inference, rather than being used to set up the rules. According to Al-Mutakalimun’s perspective, the rules and the principles –in terms of the theoretical abstract level– are adequately constructed and accepted, hence these rules and principles are in need for nothing but only for a little of illustration and indication, so that the audience can understand them.

Al-Mutakalimun utilized this way to avoid being stuck in or amid the momentum of the rulings of individual cases and details. This is



something so clear, because "it is impossible to be aware of or setting up the rulings of individual cases until you accurately understand the principle 'Al-Asl', as being confused to understand the rulings of individual cases is leading to find it difficult to comprehend the jurisprudence principles²⁴

Therefore, the thought of Fiqh rulings scholars has shined to obtain a sense of a high scientific position, which is something manifested in Taqiid and abstraction, so that facilitating the jurists' deductive function and protect them from being perplexed to understand the rulings of individual cases. Examining the details of the legal texts without having a comprehensive recognition, that organizes the rulings of individual cases in a systematic manner, makes things inevitably go astray and get perplexed and perhaps equating a variation in hadith or differing between the identical ones.

Among the most outstanding features of inductive method is that Imams' Ijtihad is dependent on the total rules, because the total rules are also theoretically establishing their ijtihaad. When the rule is set up and accepted, then it is fair to revise independent reasoning and jurisprudential rulings of individual cases, afterwards they are put under the examination of the rule; as a result, if the independent reasoning and the rulings aforementioned are in consistent with the rule, then they are accepted, otherwise they are refused.



I.3: Analytical Method

Dr. Farid Al-Ansari defines it as follows: "A method based on the study of various scientific problems, whether in terms of Tafkik, mixing variant recitations or evaluation"²⁵. This method firstly focuses on understanding the issues, deconstructing them into their constituent smallest elements, then restricting and criticizing them to infer the meanings they contain- the ones that can be generalized to others.

Deductive method mainly goes through the following stages:

- **Interpretation:** it requires perpetuating consideration, making careful reading and employing all the mental, linguistic and methodological capacities.
- **Justification:** it is done through revealing the reasons behind studying the issues targeted and the factors controlling their nature.
- **Assessment:** here, the researchers express their opinions about the subject targeted, highlighting its strengths and weaknesses. Assessment is a stage where a judgment is inferred after the issue is conceptualized and understood.
- **Conclusion:** after deconstructing, understanding and reconstructing the subject of study, then it is time to deduce the total issue and the general ruling, under which a set of particulars fall, and hence applying the general ruling to the particulars.

Dr. Ruchdi Fekkar stated in his book 'Fi Al-Manhajya wa Al-Hiwar' that "As for the basic or systematic Islamic sciences, the analytical method is considered to be used within these sciences"²⁶. This method is



crucial to be used because the jurisprudence principles science requires accuracy in consideration, realization of reason and using linguistic, legal and mental cognitive systems, hence achieving a practical application of the analytical method at all stages previously mentioned. The consideration and analysis in the fundamentalist system are different in terms of their limits from a fundamentalist field to another, whether the target field is associated with terminology, rules or something else.

Consideration and analysis are often used for the sake of "having an extra consideration in overlooked subjects of study, a renewal study of unedited topics or an extensive research in issues, which are not exposed to a careful study"²⁷. Thusly, the analytical method is strongly present in all fields and subjects of study in jurisprudence principles science. This is evidenced by the diversity of ways used by scholars of Fiqh principles. This includes the evidences, dialogues and statement of objections. For them, the statement of objections is called Al-Fanqala, which is an abbreviation of this expression 'If you say...I reply', whether these objections are real or assumed, in addition to supporting each view point with illustrative examples. The reason behind being obliged to deal with things in this way is the fact that the text the scholars of Fiqh rulings deal with is considered to be "a discourse laden with special sacred meanings, which are not found in the ordinary discourse...And this is a matter that requires careful consideration in order to grasp the facts- the subjective facts that lead to the required conclusion- from the being considered"²⁸



Based on the quote above, it is clear that invoking this distinctive method within jurisprudence principles science in relation to the Fundamental Lesson can really develop students' various skills required by this method, including understanding, deconstruction, mixing variant recitations and conclusion skills.

II: The Characteristics of the Fundamental Subjects of Study

Before talking about these characteristics, it is crucial to talk about the constituent elements of this science. The scholars of Fiqh rulings have defined jurisprudence principles science in several ways and stated that this science is mainly made up of :

- **Evidences:** Jurisprudence principles science identifies the evidences it employs to infer the rulings of Sharia. However, there is another type of evidences called disputed evidences. This sort of evidences may include the companions' statements, juristic discretion, presumption of continuity, blocking the means and so on. Thusly, the function of the scholar of Fiqh rulings is to determine the appropriate evidences that can be used as a reference to know the rulings of Islamic Law, in particular when it is about the detailed facts. The scholar is also required to classify and arrange the evidences, and explain the conditions to be taken into account while using certain evidence.



- **The Rules of Inference:** these rules are mostly learnt from the tongue of Arabs and their speech habits. This is confirmed by Imam Al-Qurafi in his book 'Al-Furuq':

“The jurisprudence principles science is mostly a set of rules of the rulings, which are originated from Arab words. These rules help to produce Islamic laws and what is related to annulations and making preferences. Too, these rules include expressions, that may express obligation, prohibition, and other linguistic forms, which indicate public meanings or something like that”²⁹

However, these rules are actually native in the tongue of the olden scholars of jurisprudence principles science. The old Arab tongue has been affected, changed, shaped and developed somehow because of the progress of time. That is why; some scholars and practitioners of this science find themselves obliged to extrapolate the words of Arabs, as well as formulating the results of their extrapolation into total rules, so the beholder of the evidence can understand its significance.

As for the rulings, they are provided for the purpose of indicating that certain rulings are subject to specific evidences and how the rulings signify the evidence. Accordingly, Ibn Daqiq al-Eid stated that: “It is adequate to only focus on using the evidences and how they should be used, thus the rulings are only considered to be subject to or a sequel of the evidence”³⁰. The Qur'an is considered to be both as evidence and the source of all evidences, because it the pillar and the totality of Sharia. Additionally, the prophetic Sunnah is the main means to understand Qur'an, due to the fact that Sunnah is authentic evidence. Using Qur'an



and Sunnah within the in Ijtihad process cannot be done except if you go through the following two stages:

“The First Stage: confirming that something is transferred from a certain Imam must be a firm confirmation, or at least a preponderant ambiguous confirmation, so that it can be sufficient to state that something is obligatory to be applied.

The Second Stage: Decoding the text and knowing its messages, so that we can figure out the lawgiver’s intention. This is done through considering the standards of Arab Tongue and the semantic rules”³¹

There is a solid link between the signifier and the signified within the Usul Science. If the signifier is tainted by blasphemy, the signified loses its credibility a fortiori. Among the outstanding features of the significance is that it involves all the actions of the legally competent Muslims in their various circumstances. Hence, the evidences above show the difference between text evidence and the rational evidence. The combination of rational evidence and text evidence is also another feature of the fundamentalist subjects of study. Imam Al-Ghazali says that:

“The most honorable science is the one where reason and hearing are combined, and where the religious rulings and the reasoning are accompanied, as well as where jurisprudence science and its rulings are also going together. Hence, it is equally reason-based and religious rulings based. It is neither purely reason-based nor purely imitation-based”³².



Accordingly, a sound understanding is mainly depending on the correct reception of revelation, as well as the good use of mind in dealing with this revelation. Because jurisprudence principles science is a means to deduce Shariah rulings, so being completely aware of jurisprudence science is basically depending on totally being aware of all the rules of understanding and deduction. This cannot be achieved except if there is a mental capacity enables the practitioner to recognize all regulating totalities of the all various particulars and the rulings of individual cases, as well as being able to place each case in the appropriate setting. The fundamentalist lesson must take this characteristic into consideration, so that students can practice and rehearse the development of the mental skills required to construct the fundamentalist talent. This can be done by students through discussion, comparison, giving preference and evidences usage. Furthermore, students must not be limited to receive ready-made knowledge, because it is something contradictory to the nature of Usul science. However, this does not mean that we must always count on reason to deal with the matters of Shariah. The scholars of fiqh rulings have agreed that "the usage of text evidence in dealing with religious rulings is more appropriate than the usage of rational evidence"³³. The rational evidences within this science are never independent, but rather they are subject to text evidences.

Imam Al-Shatibi emphasized that "The rulings of Shariah are firm not ambiguous"³⁴. For him, the rulings of Shariah are divided into two types:



Direct Evidences: This sort of evidences is composed of Qur'an, Sunnah, Consensus and analogy, in addition to the rules learned from Arabic words.

General and Total Evidences: these evidences are inferred from the extrapolation of the particulars of Shariah. This includes the actions of bringing benefits and warding off evil, facilitation and removing embarrassment, and so on.

These two types of evidences are firm because they are based on "The totalities of Shariah, which are extrapolated of the particulars... So that everything, that is based on and derived from them, is considered to be firm too"³⁵.

Briefly, the works of the scholars of jurisprudence principles are never based on flimsy probabilities, but rather their works are based on definitive evidences and probability; as a result, this leads to the attainment of confidence in the results reached to. However, the results here stand for the fundamentalist level not the jurisprudential level. Thus, "depending on preponderant probability, which is inferred the most from the evidences, is too rife in the field of jurisprudential inference. If you consider the religious rulings, you recognize that most of them are ambiguous evidences"³⁶. However, this does not negate that some of the firm rulings of the most important total evidences of Shariah are drawn out of their nature/essence. Furthermore, if the rules are induction-based, then they are considered to be firm ones. This point is confirmed by many scholars, including the following Imams: "Al-Shafi'i, Al-



Ghazali, Al-Juwayni, Al-Qaddi Abu Al-Ttayib and Al-shatibi, who see that the jurisprudence principles science is a firm one leading to definitive results”³⁷. The fact that the evidences must be viewed in terms of integration and synergy instead of being viewed in terms of fragmentation and differentiation is another feature to consider, so that we avoid the methodological mistake that is typified in the deconstructive view.

The fact that evidences are the most important thing taken into consideration by the scholar of jurisprudence principles, it is necessary to view these evidences from a perspective of synergy instead of a perspective of dissonance.

Imam Al-Shatibi has depicted this as follows: “The Islamic Shariah, according to the great Imams, should be viewed as a coherent and harmonious whole, and there is no contradiction between its totalities and particulars, because there is a strong connection between them. There is a complementary relationship between them”³⁸.

This characteristic is confirmed in the Sunnah of the messenger Muhammed (PBUH). Accordingly, Ibn Majah has stated in his book ‘Sunan Ibn Majah’ that Muhammed –the messenger of Allah– suddenly passed by his Sahabah and found them having an argument about Destiny, then, he angrily said to them: “Is this what you’re told to do? Is it for this purpose you have been created? You are making the verses of Qur’an to be contrary to one another. Because of such matters, many nations before have been perished” he continued³⁹



Hence, it is clear that the messenger of Allah (PBUH) has denied the partial view method. The messenger in this context is also blaming his companions for the fact that each party of them is trying to emphasize an idea that satisfy their desire and their opinion about certain evidence. That is why; it is better to look at evidences from a point of view that promote a mutual supportive agreement, taking into consideration what a service can this provide to the subject targeted. Moreover, the systematic view of fundamentalist evidences requires considering the nature of this view and how it deals with all evidences. For the scholars of jurisprudence principles, this feature is called the feature of arrangement and balance. Accurately speaking, this means that "putting something in the place where it is most appropriate to be in"⁴⁰ i.e, while viewing the evidences, a viewer must consider the denotative strength and position of the evidence within the inner scale of jurisprudence principles science. Balance, in this context, means "to opposite the interests and evil to their counterparts or contradictions, and to evaluate what is most prevalent of them in order to maintain or ward off them"⁴¹. This feature has emerged with Imam Al-Shafi'i in his treatise, as well as it has been supported by the testimony of Imam Al-Ghazali as follows: "Then, Imam Al-Shafi'i has accurately considered the arrangement and balance"⁴². In the light of the development of Usul science and the abundance of classification in it, the scholars held special chapters for this issue in their books. The scholars of jurisprudence principles have a deep vision to the evidences, not only when it is about authorship, but this is also done when it is about application and validation. Thusly, the modern



fundamentalist lesson must not neglect this characteristic because teaching this science is requiring being aware of its characteristics, so that the scientific rationality, which distinguished the scholars of jurisprudence principles, is acquired by students in the end.

The Characteristics of the Fundamentalist Terminology

To be deeply aware of jurisprudence principles science, it is necessary to be thoroughly aware of the fundamentalist terminology. The earlier generations have considered the terminology as a key to sciences. According to Imam Al-Shatibi, among the conditions to seek science is "to understand the purposes of the science targeted, as well as being aware of its terminology"⁴³. Hence, the matter of being acquainted with the terminology is something so important within any scientific field. Briefly, the more you are accurately aware of the key terms of this cognitive system, the more you avoid misusing or wrongly employing the terminology.

The terminological fabric of a certain science is the main means to know to what extent is this science can be considered to be scientific. Undoubtedly, jurisprudence principles science is one of the sciences, which is characterized by the strength and coherence of its terminological structure, which is the first building block upon which the foundations are built; as a result, this leads to a unity to produce the methods, which are the main tool to explicitly construct the science, to this science.

Because terminology plays a crucial role in any scientific field, it is necessary now to talk about the characteristics of the terminology of



Jurisprudence Principles Science. The terminology of this science is characterized by:

➤ **Totality and Holism**

This depiction stands for the fact that the term fundamentalist does not refer to a specific case, but rather it goes beyond the level of talking about the particulars to another level that is more general, so that it includes everything relevant to it without being specifically targeting a specific aspect. Thusly, we clearly notice that "If we talk about the fact that a command is obligatory, it does not mean that we want to mention to a specific matter, and so are the prohibition, consensus and analogy"⁴⁴

➤ **Functionalism**

This feature implies that the term fundamentalist assumes a basic function because "by recognizing the terms used in this science, the method becomes clearer, hence the researchers have in hand the tools of research and deduction"⁴⁵. The terms in this science mainly perform the inferential function of jurisprudence principles science. It is clear that "every established issue, on which no rulings of individual cases or Islamic ethics are based and it does not play any auxiliary role to do this, in jurisprudence principles, is considered to be lent article"⁴⁶. However, the terms targeted here are the ones that produce a scientific result within jurisprudence.

Yet, it is undeniable that the works of scholars of jurisprudence principles have immersed "in theoretical subjects of study, which immersively focus deep abstraction. The scholars have also



delivered different opinions in these subjects of study. The scholars of jurisprudence principles devoted their time to these subjects of study either in terms of reciting or teaching them. Consequently, students are wrongly perceived and thought to acquire these theoretical subjects of study as something essential in this science”⁴⁷.

Thusly, this is something that should be reconsidered, so that the fundamentalist lesson includes only what is believed to be in line with the nature of science to achieve its goals, hence avoiding everything that does not target the functional characteristic referred to above.

➤ **Growth and Development**

The term in this science can be depicted as an embryo. This means that the first thing that emerges from it into existence is the concept, and then it is employed practically without any terminological definition. Then, it develops until it is stabilized after being gone through the stages of that a term can be accepted and involved within a certain science’s terminology, whether in terms of internal or external level. The external level stands for the verbal aspect, while the internal level stands for the cognitive content of the term. For example, the term ‘Analogy’, which has been so common during the era of the messenger’s “Sahaba” such as Omar Ibn Al-Khattab and Ali Bnu Abi Talib”⁴⁸, is considered to be an example of the internal level. However, today this term is “used by the scholars of jurisprudence principles, especially when it is about making an inference. Omar’s message to Abu Musa Al-Asha’ari is



an example of this. The successor Ali's point of view of the mandatory punishment, which Al-coholic drinker deserves is an example, too. In his point of view, "The one who drinks, he maunders; as a result, the one who defames, he deserves a mandatory punishment"⁴⁹.

These initial meanings have formed the foundational beginnings "for what is later emerged with Imams of Ijtihad and got evolved on the base of an accurate scientific concept to become thereafter part of the new indication of Analogy"⁵⁰.

Accurately speaking, the first thing that comes out to light is the 'Concept'. After the frequent usage of the concept, it automatically gains complete and denotative meaning within the cognitive field targeted. Finally, the concept is established to be used as a specific scientific term has a certain meaning.

➤ **Group Affiliation**

Jurisprudence principles science, in its very beginning, was familiar to be separated into two different major methods. The two different schools had disputed over many things. This dispute has affected a lot the fundamentalist term. For instance, the term Evidence is one of the terms that have been targeted in their disputes. While Evidence, according to Hanafi School, is used to either express firm ruling or ambiguous ruling, without indicating the difference between these rulings, Al-Mutakalimun believe that evidence is only used in connection to what leads to learning, which means if it is used in connection to probability,



it is only considered as an Indication. However, according to most jurists, there is no difference between Evidence and Indication⁵¹

To brief, it seems like the way of thinking, that distinguished the construction of this science, has both affected the type of terms used by each school and the implied meanings of these terms. Thusly, it is clear that jurisprudence principles establishment is affected by the perspective of each doctrine; as a result, we find that there are many different Principles set up. This has taken a place within a period of time at which the nature of Usul was refusing the sectarian perspective, due to the fact that 'Al-usul' are deemed to be both the 'Total determinants' and the cause that leads to jurisprudential deductive reasoning. That is why; it is necessary to decrease the gap between the perspectives of these schools or unify them to avoid jurisprudential disagreements associated with the particulars and the rulings of individual cases.



Conclusion:

To sum up, this article aims to indicate the characteristics of Jurisprudence Principles Science. This is done through making a research in its methodological features and the characteristics of the fundamentalist subjects of study targeted by this science and showing the impact of all of this on the pedagogical aspect, which leads to infer a set of notices that are the determinants of the nature of this science and its epistemological characteristics. This is done for the purpose of using these notices within both the fundamentalist lesson and the educational practice, so that the dissonance between the nature of this science and its teaching methods is avoided.

Among the special characteristics targeted in this article are the following:

- **Normative science:** this science essentially aims to develop the methodological rules that direct the jurisprudential deductive reasoning- the required behind the feature of ambiguousness. This means that this science is not associated with individual cases, but it sets up the scales that measure these cases.
- **The Centericism of Arabic Language:**
The presence of the linguistic material is highly outstanding in the formulation of fundamentalist rules. It is something related to the nature of and is a part of the legal text, which is written in Arabic.
- **Linked to the Practical Results:**



This is manifested in the method embraced by the followers of Hanafi School. They established jurisprudence principles based on the rulings of individual cases. This led to a result that everything that is produced on the base of concrete jurisprudential results and tangible utility is considered to have a touch in Fiqh rulings, while what is not like this given no attention.

- **A Renewable Science:**

Usul Science has firstly emerged as a practical science automatically practiced, then it got developed -with some changes in the period of Imam Al-Shafi'i- to become practiced as something legalized, precise , considering identifying the field of specialization and the limits of this science. Afterwards, this science has got improved in synchronization with the emergence of the school of jurists' and Al-Mutakalimun's comprehension of how the principles of jurisprudence must be established. Then, Imam Al-Shatibi came to light to renew the how the principles of jurisprudence are perceived and considered, taking into account his emphasis on the legal purposes of this science.

- **Integration:**

The cognitive structure of this science has succeeded to combine various scientific fields, including theology, Arabic language, and jurisprudence. This science is a fertile area integrating the knowledge in its various fields and organizes it in one knowledge system to perform functions such as how to deal with revelation and making things clear to Al-Mujtahidin. Furthermore, this



science is a means used to understand another science. Thusly, it is incorrect to only focus on the cognitive contents, but rather we must create the methodological means to achieve creativity and production to avoid being limited to memorization and recovery.

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