

## Developing a general framework for the features of modernizing Islamic jurisprudence.



Prof. Ragab Abu Maleh Muhammad

Jurisprudence, the study of practical legal rulings based on detailed evidence, is a human creation enhanced by hard work, research, and thorough studies and diminished by neglect. As a result, it requires constant reevaluation of new developments and review of established principles.

We cannot say that jurisprudence matured until it was burned in the midst of this roaring wave of emerging issues in various chapters, starting with the chapter of purification and ending with jihad in the way of Allah.

It is authentically reported from the Messenger, may God bless him and grant him peace, that he said: 'Had I known when I set out what I know now, I would not have brought the Hadi (sacrificial animal) with me and I would have made it 'Umrah' [Narrated by Muslim].

Umar ibn al-Khattab, may God be pleased with him, used to say: 'This is what we have decreed, and that is what

we decree.”

Jurisprudence has been plagued by two types of individuals who discuss renewal, but their discussions amount to nothing more than dissipation, waste, and the weakening of jurisprudence. This leads to its departure from leadership!

The first group is represented, in the worst way, by Jamal al-Banna. He wants a new jurisprudence and believes that the current jurisprudence is unsuitable for renewal. He seeks a completely new jurisprudence that is not connected to the previous one in any way!

The book “Towards a New Jurisprudence” was written by Jamal al-Banna, who followed it with a series of books that are all related to its central ideas. Al-Banna distinguishes between the renewal of jurisprudence and the concept of new jurisprudence. He dislikes the term ‘renewal’ because, from his perspective, jurisprudence is not simply subject to renewal, but rather it requires a complete rethinking and the development of new principles. He suggests that this new jurisprudence would necessitate a fresh interpretation of the Quran and the Sunnah and the development of new principles.

Jamal al-Banna developed a new method of dealing with the Holy Qur’an that had never been done before, ultimately leading to a new approach to interpreting the Qur’an. He aimed to eliminate the multitude of interpretations, starting from Ibn Abbas' interpretation and ending with ‘In the Shades of Quran’ and those who came after him. He did not acknowledge all the reasons for revelation, nor did he recognize the role of the Arabic language and its rules in understanding the Book of God Almighty.

According to his beliefs, the pure prophetic Sunnah does not play an independent role in legislation that complements the Qur’an and regulates our understanding of it. He sees the infallible Messenger as merely a “postman” who delivered the Qur’an from God, and his role ended there. Even if we recognize his role, it is limited to his era and similar eras that followed. In our current era, characterized by advancements such as the atom, galaxy, open skies, and the communications revolution, we understand this time better than the Messenger of God did. (How wrong is their judgment!) [Al-Ankabut: 4].

The second group consists of a large segment of individuals claiming to be Islamic law scholars. Driven by their jealousy for jurisprudence, they argue that jurisprudence does not require renewal and that all attempts at renewal are baseless. These attempts aim to dismantle jurisprudence and they advocate for closing the door of ijtihad completely, leaving no room for further development. This assertion is an age-old one that persists to this day. It is

one of the reasons why Imam al-Suyuti wrote his book "The Response to Those Who Adhere to Tradition and Are Unaware That Ijtihad is an Obligation in Every Age."

The truth is that jurisprudence requires constant updating. However, we must urgently address two essential questions relevant to this situation.

The first question is: Who is responsible for this renewal? I would like to assert that the individuals responsible for this renewal are trustworthy and just scholars. This is supported by the authentic hadith of the infallible one, may Allah bless him and grant him peace, which states: "Allah sends to this nation at the beginning of every century someone who will renew its religion for it" (Sahih, i.e. Dawud).

The renewer could be an individual, a group, or a jurisprudential assembly, which is the most suitable for jurisprudential renewal. Collective ijtihad is the most fitting and deserving method of renewal, even if it does not contradict the efforts of individuals.

The second question is: What does renewal cover? Does it cover the fundamentals and branches, the constants, and the variables? For renewal to be effective and not wasteful, constructive and not destructive, it must focus on the branches and variables rather than the fundamentals and constants. It can cover the following:

First, we should activate the principles of jurisprudence by revisiting the teachings of the predecessors and building upon them. We need to return to the pure source of jurisprudence that was clear in the minds of the Companions. They received it directly from the Prophet, may God bless him and grant him peace, just as they received the Holy Quran. We should distance ourselves from the philosophy and theology that were later introduced to jurisprudence, as these were not part of the teachings of the noble Companions or the Followers, nor were they present in the writings of Imam Al-Shafi'i, according to the well-known opinion.

Second: Reinterpreting legal decisions in a simple and understandable way for both experts and the general public. Embracing the latest established religious rulings in the Sunni schools of thought, while also being open to wisdom from other schools of thought. Wisdom is the believer's lost property, wherever they find it, they are the most deserving of it.

Third: Prioritizing the wisdom of legislation after understanding the legal rulings and utilizing the objectives of

Islamic law to balance between schools of jurisprudence.

Fourth, we aim to free jurisprudence from the cultural influences that have arisen from the translation of Greek heritage and other sources. Our goal is to return jurisprudence to its original form, as it was during the era of the Companions and Followers. We also seek to standardize legal terminology in accordance with the Holy Quran, the Sunnah, and the Arabic language.

Fifth: Emphasizing contemporary issues and connecting them to old jurisprudential matters to intertwine jurisprudence with reality and address problems.

Sixth: Connect legal rulings to the belief in one God so that it becomes easier to follow the legal rulings even if they seem difficult. Apply them with love and enthusiasm, as following and applying them is beneficial for this world and the hereafter."

Seventh: Embrace collective ijtiḥād through esteemed jurisprudential assemblies and righteous scholars, purging it of erroneous views conflicting with the fundamental principles and definitive texts of the Holy Quran and the Sunnah.

Finally, this is a general framework, as the title indicates. The subject requires deep thinking, precise understanding, and sincerity of intention for the sake of Allah Almighty. May a jurisprudence emerge that preserves the constants and principles and renews the means and branches. It will be a reason for the nation's renaissance.

And our final supplication is that all praise is due to Allah, the Lord of the Worlds.