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Sources of inspiration for thinking on ‘Ilm’ul Usul

We cannot, as we are still in the first stage of this study, go into elaborate detail, during the study of the sources of inspiration for thinking on ‘*Ilm’ul Usul* and to reveal all the factors which inspired such thinking and supplied it with new theories immediately following one another. Therefore we shall just briefly summarize the sources of inspiration as follows:

1. Studies on application in the sphere of *Fiqh*: During research on the application of the laws of *Fiqh*, some common difficulties are revealed to the jurist. ‘*Ilm’ul Usul* then presents with formulations of suitable solutions for those difficulties. These solutions and theories become the common elements in the process of deduction. While applying those theories in their various fields, the jurist notices new circumstances influencing the modification or alternatively the strengthening of those theories. An example of the above is that ‘*Ilm’ul Usul* affirms that when a thing is obligatory its pre-requisites also become obligatory.

Thus ablution (*wuzu*) is obligatory, for instance, because of the obligation of prayers (*salat*) as it is one of the pre-requisites of prayers. Similarly ‘*Ilm’ul Usul* affirms also that the pre-requisites become obligatory only in the circumstances in which the thing itself is obligatory and cannot precede it in being obligatory. Thus ablution is obligatory only when prayers is obligatory and is not obligatory before noon, for example, since prayers are not obligatory before noon. Thus it is not possible for ablution to become obligatory before the time for prayers and it becomes obligatory (at the time for prayers).

The jurist, being aware of these affirmations, when he carries out his tasks in *Fiqh*, notices certain exceptions in some legal problems that need to be studied. For example, in connection with fasting, it is an accepted fact of *Fiqh* that the period of fasting begins with the break of the dawn and that fasting is not obligatory before that. It is also established that if a *Mukallaf* (a legally responsible person) becomes in a state of *Janabah* (major impurity requiring a bath) during the night before the time of fast, then it is obligatory for him to take a bath before dawn in order that his fast be valid. This is because taking a bath

for *Janabah* is a pre-requisite for fasting, which cannot be valid without it, just as ablution is pre-requisite of prayers and there can be no prayers without ablution.

Naturally, the jurist tries to study these laws of *Fiqh* in the light of those principles of '*Ilm'ul Usul*. He then finds himself facing contradiction, because according to *Fiqh*, taking a bath is obligatory on the *Mukallaf* before the beginning of the period of fasting whereas '*Ilm'ul Usul* has laid down that the pre-requisite of anything becomes obligatory only in the context of the obligation of that thing and not before the latter becomes obligatory. Thus this law of *Fiqh* forces the jurist to study anew that principle of '*Ilm'ul Usul* and to consider the way of reconciling it to the reality of the legal situation. As a result of that new ideas on '*Ilm'ul Usul* come into being to delineate, extend and explain that principle of '*Ilm'ul Usul* in such a way as to reconcile it to the facts of the case. This is a real example. Thus the difficulty in explaining the obligation of taking a bath before the beginning of the period of fasting was revealed during studies and research on *Fiqh*. The first study on *Fiqh* to have revealed it was the discussion by Ibn Idris in "*As-Sar'ir*", even though he didn't succeed in solving it.

The discovery of this difficulty led to many abstruse studies on '*Ilm'ul Usul* dealing with the way to reconcile its principles to the real legal situations. These are the studies that today are known as "*Buhuthul Muqaddimatil Mafutah*" (studies on the elusive pre-requisites).

2. '*Ilm'ul Kalam* (Scholastic theology): This played an important role in replenishing and extending thinking on '*Ilm'ul Usul*, especially in the first and second eras. This is because studies on '*Ilm'ul Kalam* were widespread and very influential in the general outlook of the Muslim theologians when '*Ilm'ul Usul* began to make its first appearance. Thus it was only natural that '*Ilm'ul Usul* should rely on '*Ilm'ul Kalam* and seek inspiration from it. An example of this is the theory of rational good and evil.

This theory of '*Ilm'ul Kalam* states that human reason can perceive, quite apart from any authentic text of the *Shari'ah*, the evil of certain acts like injustice and treachery, and the goodness of others like justice, faithfulness and honesty. This theory was used by '*Ilm'ul Usul* in the second era to show the validity of *Ijma'* (consensus) as a proof, i.e. if all the *Ulema* agree on one view, then that view is right, because if it had been wrong then the silence of the infallible Imam about it and his not revealing the truth would be evil, rationally. Thus the evil of the Imam's remaining silent about an error, guarantees the rightness of the view universally agreed upon.

3. Philosophy: This did not become a source of inspiration for thinking on '*Ilm'ul Usul* on a wide scale until almost the third era, when philosophical studies instead of studies on '*Ilm'ul Kalam* became widespread in the sphere of Ja'fari theology, and with the spread of important and original philosophies like that of Sadruddin Shirazi (d. 1050A.H.). This led to the acceptance of the thinking on '*Ilm'ul Usul* in the third era, with the help of philosophy and through its inspiration (which was greater than the inspiration received by Sadruddin Shirazi. Examples of this are the question of the genuineness of Being and the genuineness of Essence in a number of problems in '*Ilm'ul Usul* which he advanced, like the question of the combination of a command and a prohibition and the question of the connection of

commands with natures and individuals, on which indeed we cannot elaborate.

4. The subjective context in which the thinker on *'Ilm'ul Usul* lived: The specialist on *'Ilm'ul Usul* lives in a specific context, and derives some of his ideas from the nature of that context. The example of this is that of those *Ulema'* who lived in the first era and found the clear proofs of the *Shari'ah* easy for them in solving whatsoever needs and propositions they confronted owing to the proximity of the age to that of Imams and the relative paucity of legal problems which they had to face is specific context of theirs and their obtaining proofs made them feel that this state of affairs was absolute and would be the same for all ages. On this basis they claimed that it is part of the subtlety (*al-Lutf*) binding on Allah that He should provide a clear proof for every law of the *Shari'ah*, as long as man is *Mukallaf* (i.e. a legally responsible individual) and as long as *Shari'ah* continues to exist.

5. The factor of time: by this is meant that as the separation in time between the thing on *'Ilm'ul Fiqh* and the age of the promulgation of the authentic texts of the *Shari'ah* increased and extended, new difficulties arose, requiring *'Ilm'ul Usul* to study them. Thus *'Ilm'ul Usul* was confronted with a number of difficulties as a result of the factor of time and promulgation of the texts *'Ilm'ul Usul* then grew and expanded through its study and research on the formulation of suitable solutions to those difficulties.

For example intellectual thinking did not enter the second era until it found itself separated from the age of promulgation of the texts to such an extent that most of the traditions and narrations it possessed were no longer considered certain. Also, it was not easy to get direct information on the authenticity of those traditions and narrations, as it, had been for the jurist in the first era, in most cases. Thus the question of the importance of unreliable narrations and, the difficulties of their validity as proof arose. The importance and the need of studying unreliable traditions compelled intellectual thinking to proceed to study those difficulties and to compensate for the absence of reliable narrations, by carefully searching for legal proofs, indicating the validity of the former as proof, even though they happen to be unreliable narrations. Shaykh Tusi, the pioneer of the second era, was the first to proceed on the study; and the establishing of the validity as proof, of an unreliable narration.

When knowledge entered the third era, the increase in the distance of time resulted in doubt, even in the sense of the validity of a narration as proof on which the Shaykh had relied at the beginning of the second era. He had proved the validity of an unreliable tradition because the tradition was treated as valid by the companions of the Imams.

It is clear that the more distant in time we are from the age of the companions of the Imams and of their schools, the more vague their stand-point would be for us, and the information on their conditions would be more difficult to obtain. In this way the specialists on *'Ilm'ul Usul* began to ask themselves at the beginning of the third era: "Is it possible for us first of all to obtain a legal proof for the validity of an unreliable narration as a proof?"

On this basis, anew trend was found at the beginning of the third era calling for closing the door of

knowledge because the traditions were not trustworthy, and for closing the door of proofs, since there were no legal proofs for the validity as proof of untrustworthy narrations. It also called for the setting up of *'Ilm'ul Usul* on the basis of the acceptance of this closure as it also called for making conjecture (zann) a legal basis in the *Shari'ah* for action, without differentiating between conjecture arrived at on the basis of a tradition and other forms of that, so long as we do not possess any special legal proof of the validity of *al-Khabar* (report) as a proof, which would distinguish it from other types of conjecture.

A large number of the pioneers of the third era, and the scholars of the school that it initiated took up this tendency, like Ustad Bahbahani and his student Muhaqqiq Qummi, the writer of "*al-Riyaz*" and others. This tendency continues to shackle intellectual study and research down to this day.

Despite the fact that the first indications of this trend of closing the door of knowledge appeared at the end of the second era, the research scholar Shaykh Muhammad Baqir (the son of the commentator on "*al-Ma'alim*") has made it clear that adhering to this trend was not known about anyone before Ustad Wahid Bahbahani and his students. Similarly his father, the research scholar Shaykh Muhammad Taqi has reiterated in his commentary on "*al-Ma'alim*" that the questions raised by this trend are all new and had not entered the sphere of intellectual thinking before his own age. Hence, it is clear how new trends arise from age to age and how their academic importance increases owing to the difficulties of the factor of time.

6. The element of self-origination: Every branch of knowledge, as it grows and expands, gradually comes to possess its own power of creativity and originality as a result of the talents of the illustrious scholars and the interaction of various ideas. The example of that in *'Ilm'ul Usul* is the academic researches and the studies on the necessities and relationships between the laws of the *Shari'ah*. Most of those studies are the pure product of *'Ilm'ul Usul*. By academic researches on *'Ilm'ul Usul* we mean those studies which deal with the nature of the laws of *'Ilm'ul Usul* and the common elements to which the jurist must take recourse in order to delineate his academic stand-point once he doesn't find any indication of the law in the third era of knowledge and especially in the last stage of this era, and it dealt comprehensively and intelligently with philosophical difficulties and methods in thinking, proving, and of the *Shari'ah* which remains unknown to him.

By studies on the necessities and relationships between the laws we mean the studies carried out by *'Ilm'ul Usul* to determine the various connections and correlations between those laws on the nature of the question, "Does prohibition of a certain act primarily indicate its immorality?" Under this question is studied the relationship between the illegality of a transaction of sale and its immorality and whether it becomes null and void when ownership is transferred from the seller to the purchaser or it remains valid despite its illegality, once ownership has been so transferred. That is, is the relationship between illegality and validity one of contradiction, primarily?

The Endowment of Thinking on 'Ilm'ul Usul and its Originality

At this juncture it is necessary to point out briefly a fact that the student should know. It is not possible to elucidate and elaborate it at present. The fact is that *'Ilm'ul Usul* did not confine its self-origination to its primary field, i.e. the field of delineating the common elements in the process of deduction, but it made significant original contributions in a number of important problems in human thinking. This is because *'Ilm'ul Usul* reached the peak of abstruseness and profundity research, in a manner, free from philosophical imitation and adoption, which had shackled philosophical studies for the last three centuries and had caused it to proceed along the prescribed lines.

During this time, philosophical thinking did not have the courage to break away from the general laws laid down for philosophical thinking, which was overawed by the great philosophers and by the fundamental accepted principles of philosophy to an extent which made its greatest: aim the understanding of their ideas and the acquisition of the power to defend them. While philosophical studies were in this stage, researches on *'Ilm'ul Usul* were being carried on intelligently and in depth in the study of the philosophical difficulties, free from the authority of the blindly imitating philosophers and from their awe.

On this basis, *'Ilm'ul Usul* took up a number of propositions of philosophy and, logic, which were connected with its own objectives, and brought about original contributions that were not found in the philosophical research, which was in a state of totally blind imitation. Thus we can say that the thinking endowed by *'Ilm'ul Usul* in the fields of philosophy and logic, which it studied, was more creative than that given by the philosophy of the Muslim philosophers themselves in those fields.

Here, we shall mention some of the fields, in which the thinking on *'Ilm'ul Usul* made original contributions: [1](#)

1. The field of the theory of knowledge: This is the theory that deals with the value of human knowledge and the extent to which it can be relied on. It also discusses the principal sources of human knowledge. Studies on *'Ilm'ul Usul* extended to the field of this theory, and this is represented in the severe intellectual conflict between the Akhbaris and the Mujtahids, which brought about, and is still bringing about, new ideas in this field. We have already come to know in a previous discussion, how the trend of sense perception through, this conflict, spread to the intellectual thinking of our jurists, at a time, when it was not yet found in European philosophy.

2. The field of linguistic philosophy: The thinking on *'Ilm'ul Usul* preceded the most modern trend in the world concerning symbolic logic. This was the trend of the mathematical philosophers, who traced the trend of the mathematical philosophers back to logic and logic back to language. They consider that the main task of the philosopher is to analyse and philosophize language, instead of analysing and philosophizing, external existence. The thinkers on *'Ilm'ul Usul* were engaged since long in the task of linguistic analysis. Their researches on literal meanings and forms in *'Ilm'ul Usul* indicate their

precedence in this behalf. It is curious that today Bertrand Russell, the pioneer of that new trend in the contemporary world, should write, attempting to differentiate between two sentences in his study of the analysis of language (the sentences being 'Caesar died' and 'the death of Caesar' or 'the death of Caesar is true') and not reach a conclusion. He left the difficulty of the logical differentiation between these two sentences unsolved and wrote, "I don't know how to solve this difficulty in an acceptable way".²

I say that it is curious that the scholar at the peak of that new trend should be unable to analyse the difference between these two sentences when *'Ilm'ul Usul* had already solved these differences in its researches on the philosophical analysis of language and laid formulated more than one explanation for it. We also find seeds of the theory of logical forms with some of the thinkers on *'Ilm'ul Usul*.

The researcher Shaykh Muhammad Kazim Khurasani in "al-Kifayah" tried to distinguish between real and hypothetical orders, which is, in accordance with the main concept of that theory. Thus *'Ilm'ul Usul* was able to precede Bertrand Russell, the originator of that theory. Not only this it was able to do more, as it later criticized and refuted that theory and solved the contradictions on which Russell based his theory. One of the most important difficulties, studied by ancient philosophy, and taken up by modern researches on the philosophical analysis of language, is the difficulty of words, which do not seem to refer to any existing thing.

For example what do we mean by saying, "The necessary relationship between fire and heat?" Does this "necessary relationship" exist in addition to the existence of fire and heat or is it non-existent? If it exists, then where does it exist? If it is non-existent and has no existence, how can we speak about it? *'Ilm'ul Usul* solved this difficulty free from the philosophical shackles which had restricted the problem to the sphere of existence and non-existence and it made an original contribution in that. We have mentioned all these examples here in a briefly so that the student may become aware of them. We are deferring their elucidation and elaboration to later discussions, Insha Allah Ta'ala.

¹. These examples need not be studied in detail. The teacher only has to if he sees a field, indicate part of it. We shall present them in a more detailed manner in the forthcoming discussion, Insha Allah Ta'ala'.

². "The Principles of Mathematics", vol. I, page 96, translated by Dr Muhammad Musa Ahmad and Dr Ahmad Fuad al-Ahwani.

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