

Jurisprudence Jargon

Duty (Taklif)

The Arabic term *taklif* is derived from the term *kulfah* which means difficulty. It is used to mean the forcing of an action. For example the sentence; Zayd forces (*kallafa*) 'Amr to do an action; he forces him.

Divine laws are called *taklif* because they are sent from the Master, glory be to him, and it is necessary for the *mukallaf* to obey them.

So, *taklif* means a forced action given to an adult by the Master, glory be to him. These actions encompass different aspects of man's life, for example his personal life, his worship, his family life and his social life. These laws give order to his life. Examples of these laws are: prayer being obligatory and adultery being forbidden.^{[1](#)}

Ijtihad

From the beginning of Islam until its middle ages there was another word for *fiqh*, it was *ijtihād*. *Ijtihād* is derived from the term *juhd* which means effort and struggle. The jurist is called a *mujtahid* because of his efforts and struggle in making religious rulings.

The word *istinbat* has a similar meaning. It is derived from the word *nabat* (*al-m'*) which literally means taking water out of the ground. A jurist performs a similar action when he struggles to take the religious ruling from its source.^{[2](#)}

The term *ijtihād* is used by the religious scholars to mean obtaining a proof for a religious ruling.^{[3](#)}

The Necessity of Ijtihad

Islamic rulings are not mentioned for every situation. That would be impossible, because there are countless situations that happen all the time. Instead it gives general principles and rules.

Therefore, when a jurist must make a ruling for a certain situation he must look into the official sources and give his ruling. Here is where *fiqh* is synonymous with a deep, precise and inclusive understanding.[4](#)

Mujtahid

Definition: a *mujtahid* is one who has reached the level of *ijtihad* in understanding religious laws. This means that he has the ability to deduct religious rulings from the Qurʾān and traditions.

This *mujtahid* is able to deduct religious laws in all the subjects that the *mukallaf* needs or only certain subjects because of their ease. In the first case he is called a pure *mujtahid* and in the second a minor *mujtahid*.

The sciences that a *mujtahid* needs to know in order to be able to deduct religious rulings are:

1. Arabic grammar; syntax, morphology, vocabulary and eloquence. The reason for this is that the Qurʾān and traditions are in Arabic and it is impossible to understand the Qurʾān or the traditions without knowing Arabic.
2. *Tafsīr*; the *mujtahid* will have to refer to the Qurʾān so he must have a general knowledge of *tafsīr*.
3. Logic; because every deductive skill needs logic. Logic teaches one how to define something and how to deduce something.[5](#)
4. The science of traditions: a *mujtahid* must know about traditions and their categories.
5. The science of *riʾāṣ*: This is the science of knowing the individual in the chains of narrations; knowing if they are trustworthy or not. The reason for this is that one cannot accept everything that is narrated unless it is narrated by trustworthy people.
6. The principles of jurisprudence: This is one of the most important sciences that the *mujtahid* must know because they are the rules that are applied in all of the different sections of jurisprudence.

Taqlid

Taqīd means acting according to the verdict of a *mujtahid*. *Taqīd* shifts the responsibility of finding the religious ruling from the person performing *taqīd* to the *mujtahid*.

Taqīd is one of the ways of finding a religious ruling, like *ijtihad*. Except that *ijtihad* is a direct way and *taqīd* is an indirect way, because one reaches the religious ruling from the *ijtihad* of another.

The proof for *taqīd* being permissible or obligatory is the actions of sane people. Sane people find it necessary for an ignorant person to refer to a scholar. The referral of the ignorant to the scholar is something seen in every society that man has been in. It is even seen today. An example of it is when a

non-specialist refers to a specialist.⁶

One is dependent on *taqlīd* in finding out religious rulings except in the cases where one knows a religious rule. One can know a religious rule by having certainty about it which is possible without struggling and without study. Examples of these are some of the obligatory actions, many of the recommended actions and most of the permissible actions which are known by most of the people who live in religious areas. Or, one can know the religious rule because of it being self-evident like the obligation of prayer or the forbiddance of drinking wine.

Precaution

Precaution *ihtiyāt* means: the *mukallaf* performing everything that he suspects to be obligatory but does not suspect it to be forbidden or refraining from performing anything that he suspects to be forbidden but does not suspect it to be obligatory. The *mukallaf* must know the different instances of precaution to be able to do this. He must know every place where it is suspected to be obligatory and not suspected to be forbidden or it is suspected to be forbidden and not suspected to be obligatory. This knowledge does not come without looking at verdicts from different *mujtahids*.

So, precaution is another tool of finding the religious ruling. It is different than the previous two, *ijtihād* and *taqlīd*. The *mujtahid* reaches the religious ruling from his efforts while the person who performs *taqlīd* obtains the exact rule from the *mujtahid*. But, the person who performs precaution only gets a general understanding of the rule. The reason for this is that the religious ruling for him is something dangling between obligation, recommendation or permission.⁷

Precaution is a way of becoming certain that one has performed the real religious ruling. Precaution is divided into two categories:

1. Obligatory precaution: the *mukallaf* must act according to precaution if he wants to stay on the *taqlīd* of whoever he performs *taqlīd* to. But, in this ruling, he or she can act upon the verdict of another scholar if he wants to change the person who he performs *taqlīd* to. The condition that must be followed is that he must change from the most knowledgeable to the next most knowledgeable and so on.
2. Recommended precaution: the *mukallaf* does not have to act according to this precaution, but it is better to do so.

¹ Muhammad Baqir al-Sadr, Halaqah 1, page 126

² Shahīd Muttaharī, Madkhal Ila al-‘Ulūm al-Islāmīyyah, page 10

³ ‘Alī Mishkātī, Istilāhāt al-Usūl, page 18

⁴ Shahīd Muttaharī, Madkhal Ila al-‘Ulūm al-Islāmīyyah, page 8

⁵ Hādī al-Fadlī, Dirāsāt al-Fiqh al-Imāmīyyah, page 39

⁶ Hādī al-Fadlī, Dirāsāt al-Fiqh al-Imāmīyyah, pages 252–254

⁷ Hādī al-Fadlī, Dirāsāt al-Fiqh al-Imāmīyyah, pages 255–256

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