



Rationalization Based on Wisdom and its Relation to the Authority of Unrestricted Public Interests

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Abstract

The importance of defining the meanings of fundamentalist terms and differentiating between their realities, especially if they overlap. This is why the science of fundamentalist differences is one of the most accurate and prestigious sciences of the Shari'ah, because it compares between similarities that can only be distinguished by the best scholars. This research came to compare two important terms used by the scholars of Usul and the people of Ijtihad, namely, reasoning by wisdom or interest and invoking with sent interest.

There is a similarity between these two terms in that both of them are justification and evidence based on interest. However, the difference between them lies in the fact that reasoning by wisdom is related to the ruling mentioned in the texts of the Sharia, so its cause is sought by knowing the wisdom behind its legislation, and then others are compared to it. As for the sent interest, is related to the ruling that is not mentioned in the Sharia, so it is legislated based on its achievement of this interest.

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Reasoning by the court and its relationship to the authenticity of sent interests

We praise, thank, and forgive Allah, and we seek refuge in Allah from the evils of our souls and the bad deeds of our deeds; whoever is guided by Allah, there is no wayward, and whoever is misguided, there is no guide, and I testify that there is no god but Allah alone, without a partner, and I testify that Muhammad is His slave and His messenger .

The importance of defining the meanings of fundamentalist terms and differentiating between their realities, especially if they overlap. This is why the science of fundamentalist differences is one of the most accurate sciences of the Shari'ah, and the most prestigious, because it distinguishes between the similarities that only the best scholars can distinguish between them. This research was conducted to compare two important terms used by the scholars of Usul and the people of Ijtihad, namely the reasoning of wisdom (interest) and the authenticity of the sent interest.

The main reason that led me to choose these two terms over others is that I found some distinguished scholars confusing them and citing evidence or examples of one over the other.

First: Reasons for choosing the topic

- 1- Demonstrating the importance of the science of differences in general, and those related to the fundamentals of jurisprudence in particular.
- 2-This topic relates to two important terms in the process of Ijtihad, namely: Reasoning with wisdom or interest and invoking with the sent interest.
- 3-This research reveals the differences between reasoning by wisdom and invoking the sent interest.
- 4- Distinguishing between these two terms helps in judging the evidence for each of them.

Second: Previous studies on the subject:

Many books and theses have been written on the science of fundamentalist differences. However, I did not find anyone who singled out the relationship between these two terms for research and study, nor did I find anyone who dealt with it mainly among those who wrote on fundamentalist differences.

Third: Research Methodology:

In this research, I relied on the inductive and analytical method, as I followed the words of fundamentalists on the subject, and tried hard to analyze their opinions and discuss them in the light of what the scholars of the art have decided.

Fourth : The research plan:

Since the research deals with the relationship between the reasoning of wisdom and the authenticity of the sent interest, I have divided it into three requirements as follows:

Requirement one : Reasoning with wisdom and its authenticity.

Requirement two: The authenticity of the sent interest.

Requirement three : The difference between reasoning by wisdom and invoking with sent interest

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Requirement one : Reasoning by wisdom (interest):

This issue is commonly known among Usul scholars as reasoning by wisdom, but they do not distinguish between interest and wisdom, as they are synonymous. Al-Ghazali said: "By wisdom, we do not mean anything other than the appropriate imagined interest. ¹,this requirement can be translated as reasoning by interest, as al-Fakhr al-Razi did.²

Branch one : Editing the place of dispute in the issue:

Reasoning by wisdom is the attachment of a branch to an original in a ruling by virtue of their commonality in the wisdom on which the ruling is based in the original.

This is the locus of the dispute in the matter, as for merely stating the wisdom of legislating rulings without analogy, there is no dispute among scholars, as it is mentioned frequently in the texts of the Book and Sunnah.³

¹ Al-Mustasfa: 3/679

² See: Sharh al-Ma'alim: 2/376

³ See: Ta'leel al-Ahkam al-Shari'ah: 141

Some contemporaries went so far as to limit the place of dispute in the matter to things that he arrived at by his Ijtihad, which we would do well to look at for their relevance, and study them to know the face of truth in them.

He said in his summary ⁴: Mandatory judgments are of two types: Initial and consequential. The former is established by the letter of mandate, and the latter is established by the letter of status. For example: The act of stealing has two mandatory rulings: The prohibition of theft, which is initially established by the mandatory discourse, and the obligation to cut off the thief, which is established by the second discourse of status (i.e., placing theft as a reason for cutting off the hand). Upon reflection, we find that, in principle, there is no disagreement among fundamentalists about the permissibility of making an analogy to the initial ruling established by the letter of mandate using wisdom, even if it is not obvious and uncontrolled. For example, measure everything that leads to enmity, hatred, and distraction from the remembrance of God and from prayer and drinking wine in the ruling of prohibition, because they share the mentioned wisdom

He then explained that the disagreement is limited to two cases, of which we are interested in what he mentioned in the second case, namely, if the attribution of the judgment to wisdom from the point of view of existence leads to the establishment of new reasons for judgments by opinion and Ijtihad that parallel the stipulated reasons. This case is specific to the secondary rulings established by the discourse of status. This is the issue known as “analogy in causes,” such as the analogy of everything that leads to enmity, hatred, and discouragement from the remembrance of God and prayer and drinking wine, not in the prohibition, which is the primary judgment, but in the imposition of the limit, which is the secondary judgment associated with drinking wine.

He then reasoned that this is evidenced by two proofs:

One of them: Al-Ghazali discussed the issue of reasoning by wisdom within the issue of analogy in causes, not outside it. He was the first Shafi'i fundamentalist to address this issue in response to al-Daboosi's claim. After al-Ghazali, Shafi'i fundamentalists such as al-Razi and al-Amdī, but they separated it from the issue of analogy in causes after it was part of it. Ibn Rahal al-Iskandari pointed out the interdependence between the issues of analogy in causes and reasoning by wisdom when he said: Reasoning by wisdom is forbidden by those who forbid analogy in causes, and permissible by those who allow it.

The second evidence is that all the examples cited by the fundamentalists on the issue of reasoning by wisdom are in rulings that are established by the speech of status, such as the analogy of the seeker for the thief, the murderer with a heavy hand to the murderer with a limited hand, and the sodomite to the adulterer.

This is the summary of the researcher's words. It can be answered as follows:

First: He considered that basing the disagreement in the issue of analogy in causes on the disagreement in the issue of reasoning by rule is evidence that the disagreement in the second issue is limited to the subject matter of the first issue.

This speech is to review, the reason for the disagreement may be more general than the subject of the disagreement, or it may be more specific, as there is no evidence that the cause of the disagreement must be united with the subject of the disagreement. What confirms this is that some of the scholars of the fundamentals have based the dispute in the assignment of the oblivious such as the drunk, the insane and the sleeping on the dispute in the assignment of the impossible⁵, does this mean that the dispute in the assignment of the impossible is limited to the assignment of the oblivious? Of course not, as one of the most famous forms of impossibility is the request to combine the two opposites.

⁴ See: The Cause, Wisdom, and Explanation by Wisdom: A Terminological Study: 99

⁵ See: Introduction to the Graduation of Branches on Principles: 112

Second: His claim that al-Ghazali was the first Shafi'i fundamentalist to address this issue is not true, as it was addressed by al-Samaani when he quoted from Imam al-Haram in as explaining the obligation of retaliation by realizing the sanctity of blood and the permissibility of selling by paying for people's needs. Then he replied to him that this is a kind of reasoning by wisdom, which is not permissible.⁶

Third: The claim that all the examples cited by the fundamentalists on the issue of reasoning by wisdom are in rulings that are established by the discourse of status, is refuted by the example mentioned by Imam al-Haramayn and approved by al-Sam'ani. That is, the permissibility of sale on the payment of people's needs, which is a mandatory ruling

Branch two: Scholars' views on the issue:

Scholars differed in explaining the reasoning behind wisdom into three schools of thought:

Doctrine one: Preventing the reasoning of it, which was adopted by Al-Sam'ani and Ibn Al-Subki.⁷ They argued that the nature of wisdom is hidden and lack of discipline, and it differs according to the people and circumstances. The hardship that is the wisdom behind the legitimacy of easing travel differs from one person to another, so linking the ruling to wisdom leads to lack of discipline in the rulings, which leads to violating them.⁸

Doctrine two: It is permissible to reasoning with wisdom, and many fundamentalists have argued for it.⁹

They argued that if it is proven that a description can be reasoned with, then wisdom is more appropriate, because it is the origin of that description, and without it, that description would not be valid for reasoning. It is not reasonable for the origin to be inferior to its branch.¹⁰

Doctrine three: It is permissible to reasoning based on wisdom if it is apparent and regulated, and it is forbidden to reasoning if it is hidden or confused. Contracts are not reasoned by consent because it is hidden, but rather the offer and acceptance are established in its place. Travel concessions are not reasoned by hardship because it is not disciplined and people's conditions vary in it, but rather travel is established in its place. Some scholars have chosen this school of thought, such as Al-Amidi, Ibn Al-Hajib, Al-Safi Al-Hindi, and Ibn Abd Al-Shakoor.¹¹ They have provided evidence that when the Lawgiver changed from reasoning based on wisdom in some cases to justifying a reason based on an apparent and regulated description, despite the fact that wisdom is the true reason for legislating a ruling, it was because of its lack of discipline or appearance. If we find a wisdom in which the condition of appearance and discipline is fulfilled, justifying it because it is the origin is more appropriate than justifying it based on the description that is its source.¹² These are, in brief, the opinions of the scholars of the principles of jurisprudence on the issue. After that, consideration remains on the possibility of the existence of an

⁶ See: Conclusive Evidence: 3/287

⁷ See: Conclusive Evidence: 4/288, Collection of Compendiums (with Attar's Commentary on Al-Mahalli's Commentary): 2/279

⁸ See: Al-Ahkam fi Usul Al-Ahkam: 3/203

⁹ See: Al-Burhan: 2/212, Al-Mustasfa: 3/697, Al-Mahsul: 5/287, Rawdat Al-Nadr: 2/297, Minhaaj Al-Wusul (with the End of the Question and the Commentary on the Ladder of Wusul): 4/260, Explanation of Mukhtasas Al-Rawdah: 3/446, Al-Bahr Al-Muhit: 5/133

¹⁰ See: Explanation of Tanqih al-Fusul: 406

¹¹ See: Explanation of Tanqih al-Fusul: 402

¹² Al-Ihkam fi Usul al-Ahkam: 4/256

apparent and regulated wisdom. The proponents of the first school of thought forbid that, while the proponents of the third school of thought permit it. Even if what the proponents of this third school of thought have stated is correct, then the inclination towards their statement is necessary, due to the strength of their evidence.

Requirement two: Sent interests and their authenticity.

It is not possible to determine the truth of this evidence without referring to the words of the fundamentalists in the sections of the appropriate description. For this reason, we find some fundamentalists, when dealing with the evidence of the sent interest, referred to the place where they discussed the sections of the appropriate description.¹³

What is important in this research is to focus on the truth of the sent interest, because it is the one on which the topic of the research is based, which is to differentiate it from the reasoning of interest. As for the scholars' disagreement about its authenticity, I will not deal with it, because I have detailed it in a published research paper on the authenticity of sent interests, which I called: "The Truth of Sent Interests and the Scholars' Opinions on their Authenticity". Unlike the reasoning of wisdom, which I have only touched on in this paper because I have not previously researched it.

Interests are divided into three main categories according to lawgiver: The considered interests, the sent interests, and the abrogated interests. These divisions and their ramifications have been extracted from the words of the fundamentalists about the sections of the appropriate description with which the sharia ruling is entrusted, in order to achieve the interest of its legislation ¹⁴

Section one : Recognized interests:

These are the interests for which the lawgiver witnessed the descriptions that fulfill them, and they are in three ranks:

The first rank: The interest of the appropriate and influential description: That is, the appropriate description that has been proven by text or consensus to be a reason for the ruling, such as the reason for cutting off the hand with the description of theft: Thief and thief, cut off [al-Ma'idah:38], and the reason for the rule of establishing the guardianship of money with the description of young age by consensus. Both of these two descriptions are suitable for the ruling associated with them, because cutting off the hand of the thief and preventing the minor from disposing of his money are two reasons for preserving the money.

The second rank: the interest of the appropriate description: That is, the description that has not been proven by text or consensus to be a reason for the ruling, but it has been proven in the Shari'ah only to arrange the ruling according to the description, i.e. the ruling is proven in a place that includes this description. Moreover, one of the following things has been proven by text or consensus:

First: Considering the eye of the description in the gender of the judgment, for example: It is legally established that a young virgin is married by her father,¹⁵ so it is legally established that the marriage guardianship is arranged according to the description of young age. It has been proven unanimously that youth is the cause of financial guardianship. The guardianship of money is a type of guardianship that includes the guardianship of marriage as well, so the reason for the guardianship of the marriage of the young virgin must also be smallness.

¹³ See : Al-Ihkam fi Usul al-Ahkam: 3/255, Raf' al-Hajeb 'ala Mukhtasar Ibn Lahajeb: 4/178, Nihayat al-Wusul: 8/3494, Muslim al-Thubut (with the openings of al-Rahmut): 2/324

¹⁴ See: Al-Ihkam fi Usul al-Ahkam: 3/256

¹⁵ See: Al-Adud's Explanation of Ibn al-Hajeb's Mukhtasar (with al-Taftazani's commentary): 3/578

Second ; Considering the gender of the description in the eye of the judgment. For example: It has been proven that the ruling on the legality of combining the two prayers is based on the rain,¹⁶ the ruling on the permissibility of combining prayers has been established according to the description of rain, which is considered a type of hardship. The description of hardship has been established in the permission to combine prayers, because the Lawgiver considers it in travel and Hajj in Arafat and Muzdalifah. Hardship is a type that includes the hardship of travel, the hardship of Hajj, and the hardship of rain. Therefore, the reason for the permissibility of combining prayers due to rain must be hardship.

Third: Considering the gender of the description in the gender of the ruling. For example: The Shari'a has arranged retaliation for the soul for premeditated and aggressive killing if it is specific.¹⁷ It has been established that the ruling on retaliation is arranged according to the description of premeditated and aggressive killing. It has been established by consensus that the type of premeditated and aggressive killing – which is the deliberate crime that includes the crime against the soul and the crime against the parties—is considered in the ruling on the obligation of the type of retaliation that includes retaliation for the soul and retaliation for the parties, as evidenced by the fact that the one who attacks another party is subject to retaliation, even if it is not with a specific instrument. Therefore, it must be that the reason for the obligation of retaliation for premeditated and aggressive killing with a specific purpose is premeditated and aggressive killing.

Third rank: The interest of the appropriate description: That is, a description that has not been proven by text or consensus, but it has been proven in Shari'ah to arrange the ruling according to it, but it has not been proven that its eye is considered in the gender of the ruling, or its gender in the eye of the ruling, or its gender in the gender of the ruling. For example: Committing a forbidden crime in order to achieve a worldly goal, this committing a crime is considered an appropriate description to prevent its owner from reaching his goal. When searching for the extent to which the Shari'ah considers this description for this ruling, we find only one Shari'ah ruling according to it, which is preventing the murderer from inheriting. There is no other consideration.

Section two : Abolished interests (the interest of the abolished appropriate description): That is, the appropriate description that has been proven to be canceled by a text. Example: The fatwa of Yahya bin Yahya al-Laithi al-Andalusian to some kings when he had sexual intercourse during Ramadan, he ordered him to fast for two consecutive months, when he was denied, as he did not order him to free a slave as the hadith says. He said, "If I had ordered him to do so, it would have been easy for him, and he would not have despised the act of freeing a neck for the sake of satisfying his lust. However, the scholars responded to his Fatwa by saying that it is contrary to the hadith of al-'Urabi in making the penance for sexual intercourse during Ramadan, as the Prophet ordered him to free a neck, and when he was unable to do so, he ordered him to fast for two consecutive months, and when he was unable to do so, he ordered him to feed sixty poor people.

Section three: Sent interests (the interest of the appropriate description sent): That is, the appropriate description that has not been considered by text or consensus, nor has it been prescribed in the Shari'ah to arrange the ruling according to it. It is of two kinds:

First rank: The appropriate transmitter; in addition to what was previously known in the Shari'ah, it is considered the same in the gender of ruling, or its gender in the type of ruling, or its type in the type of ruling. An example of this is the state's need when the treasury is empty due to spending what is in it on

¹⁶ See: Hashiyat al-Attar on Jami' al-Jawami': 2/325, Taysir al-Tahrir: 3/310, Fawaatih al-Rahmut: 2/265

¹⁷ Among this is what is established in the agreed upon hadith: "The Prophet, may God bless him and grant him peace, married Aisha, may God be pleased with her, when she was six years old," as it is unlikely that her father, Abu Bakr, may God be pleased with him, asked her permission for that.

legitimate interests. This description (the state's need) is appropriate in the view of the jurist for the ruling imam to impose on the rich what improves the state's condition and does not harm their interests. Because it is established in the Shari'ah that the type of this description is considered the type of this ruling.¹⁸

Second rank: the strange transmitter: It is the appropriate description that is not considered in the same way as the ruling by text or consensus, nor is it mentioned in the Shari'ah to arrange the ruling according to it, and it is also not known that its eye is considered in the gender of the ruling, or its gender in the gender of the ruling, or its gender in the gender of the ruling, but it is not proven by text that this description is abolished. This section is difficult to represent, which is why many fundamentalists did not address it, and some even denied the existence of this section in the first place.

Requirement three: The difference between reasoning with wisdom and arguing with sent interest.

One of the meanings of reasoning is inference and argumentation, so it is said that he reasoned for this ruling, i.e., he reasoned for it. Or they say: The reason for this ruling is the hadith, i.e., its evidence.

Al-Jalal al-Suyuti said: Reasoning: The reasoning of the thing that is sought to be proved or disproved, so that the mind moves from knowledge of it to knowledge of what is known, and is also called inference.¹⁹

Al-Tabari said: "Abu Thawr said: If a person makes peace in the fruit of a particular palm tree, if it appears to be good, it is permissible, based on the report from the Prophet: "He forbade salim in the fruit of a particular palm tree until it is ripe."²⁰

In this sense, we find a similarity between the reasoning of wisdom or interest and the argument with sent interest. This is what led some contemporary scholars to make no distinction between them, and to state that those who allow reasoning by wisdom are the same as those who invoke sent interest.²¹

It may be said that the difference between the two can be seen from the above: The reasoning of wisdom relates to the ruling that is mentioned in the text of the Shari'ah, so we look for its cause by knowing the wisdom of legislating this ruling, and then measuring it by analogy. This is the meaning of the statement of the fundamentalists in explaining the truth of the appropriate sent description (sent interest): The Mujtahid deduces this ruling based on this appropriate sent description sent by the Shari'ah. There is a difference between a ruling that is prescribed by the Shari'ah, for which one searches for its cause or wisdom, so that others can be compared to it, and a ruling that is reached through sent deduction and inference.

This distinction is emphasized between two cases by the fact that Al-Amadi and Ibn al-Hajib are among those who argued that reasoning by wisdom is permissible provided that it is apparent and disciplined, and on the subject of sent interests, they stated that it is not authentic at all.²²

The distinction between reasoning with wisdom and building a judgment based on sent interest is very useful in judging the evidence relied upon by those who allowed reasoning with wisdom, and in

¹⁸ Malik narrated in al-Muwatta' (145): "When the rulers combined the Maghrib and Isha prayers in the rain, Ibn Umar, may God be pleased with him, combined them with him."

¹⁹ This has been proven by consensus of scholars. [See: Al-Iqna' fi Masa'il al-Ijma': 2/276]

²⁰ See: Shifa' al-Ghaleel: 234, Al-I'tisam: 3/22, Da'wabat al-Maslahah: 226, Al-Safo' al-Maslaha li-Shari'ah al-Hukm: 285

²¹ Mu'jam Maqaleed al-Ulum fi al-Hudud wa al-Rasum: 78

²² Ikhtilaf al-Fuqaha': 124

discussing the examples quoted by some the companions or others as supporting the permissibility of reasoning with wisdom, as their truth does not go beyond building judgments based on sent interests.

Professor Muhammad Mustafa Shalabi stated in his valuable book, *The Reasoning of Rulings*, that those who prohibited reasoning with wisdom did not mean that they did not want to prohibit the statement of the wisdom of the legislation of the rulings, but they meant that neither the Shari'ah nor the words of the Imams explained the ruling with its wisdom so that it could be extended to other than the place of the text. He then responded to them with a number of examples from the era of the companions to the era of the Imams, which he claimed refuted their claim.²³

However, those who look closely at these examples find that some of them are like a statement of the wisdom of legislating the ruling, such as Imam Malik's reasoning for prohibiting traveling with Qur'an to an enemy land for fear that the enemy will get it, and others are like basing the ruling on the sent interest, such as Umar forbidding Hudhayfah from marrying Dhimmi women, and forbidding the division of the land of Sawad, among other examples.

The only example mentioned by Mr. Shalabi that the ruling was linked to its wisdom, and then misplaced, is that the companions explained the hadith: "Hands shall not be cut off in travel"²⁴ by the harm that cutting them would cause, to include all penalty, saying: "penalty shall not be performed in the house of war for fear of being caught up with the enemy." He then said: "Isn't that a justification? Then he said, "Isn't that a reasoning of wisdom? Isn't that a reasoning of wisdom?"

What he said to view, because it has not been proven that any of the companions reasoned the prohibition of cutting off the hand of a thief while traveling because of its corruption, but what I found - which is what Professor Shalabi himself stated - is that Zayd bin Thabit and others said: "penalty shall not be imposed in the house of war for fear that its people will join the enemy."²⁵ The reason given is not the corruption of the act, but the fear of joining the enemy. This is not a reasoning with wisdom, but rather the fear of joining the enemy. This is not a reasoning based on wisdom, but rather a reasoning based on a clear and controlled description, because the wisdom of fearing that the person who is bound to join the war zone will leave his religion, and this is contrary to the purpose of preserving religion.

Conclusion:

The most important findings of the researcher:

- 1- Reasoning by wisdom is the attachment of a branch to an original in a judgment by sharing the wisdom on which the judgment of the original is based. It is not valid to limit the place of dispute in it to the issue of analogy in the causes.
- 2- The scholars differed on the issue of reasoning by wisdom on three doctrines, the closest to the correct one being that reasoning by wisdom is permissible if it is apparent and disciplined, after which the possibility of a disciplined apparent wisdom remains to be considered.
- 3- Through the division of interests, it became clear that the sent interest is that which has no special evidence in the Shari'ah to consider or cancel it, and is represented by the appropriate sent description. It is the appropriate description that has not been considered in the same way in the same judgment by text or consensus, i.e. it has not been stipulated or unanimously agreed upon that this description is superior

²³ Usul al-Fiqh that a jurist cannot afford to be ignorant of: 180

²⁴ See: *Al-Ahkam fi Usul Al-Ahkam*: 4/160, *Al-Adud's Commentary on Ibn Al-Hajib's Mukhtasar* (with Al-Taftazani's Commentary): 3/578

²⁵ See: *Ta'leel Al-Ahkam Al-Shari'ah*: 142

to the said judgment, nor has it been mentioned in the Shari'ah to arrange the judgment according to this description.

4- The appropriate sent description is of two types: Appropriate and strange. The disagreement over the authenticity of sent interests is in both cases.

5- There is a similarity between the reasoning of wisdom and the argument of sent interest in the sense that both of them are reasoning and inferring an interest, but the difference between them lies in the fact that the reasoning of wisdom relates to the ruling that is mentioned in the texts of the Shari'ah, so it is searched for its cause by knowing the wisdom of its legislation, and then others are compared to it. However, the difference between the two lies in the fact that reasoning with wisdom relates to the ruling that is not mentioned in the Shari'ah, so it is legislated based on its fulfillment of this interest.

In conclusion, I ask Allah Almighty to benefit from this research and make it purely for His honorable face, and whatever is right in it is from Allah, and whatever is wrong is from myself and the devil. Our last supplication is that praise be to Allah, the Lord of the Worlds.

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