



Clarification the Position of Al-Juwaini (D. 478 AH) on Analogy Being One of the Principles of Jurisprudence

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Abstract

Praise be to God , the Lord of the Worlds, and peace and blessings be upon the most honorable prophet and master of messengers, our Prophet Muhammad, his family, his companions, and his family... And after.

The research reveals an important issue, which gains its importance in terms of its relation to one of the scholars of the principles of jurisprudence - al-Juwayni - as well as its relation to one of the evidences of legislation - analogy - "which is the basis of Ijtihad, the source of opinions, the guarantor of the details of rulings when the mob quarrels, and the one that is circulated in all events (¹). Ibn al-Subki attributed to al-Juwaini that he does not consider analogy to be one of the principles of jurisprudence; as Ibn al-Subki said: "And analogy is one of the principles of jurisprudence, contrary to al-Juwaini", so this study (Clarifying al-Juwayni's Position on the Analogy as One of the Principles of Jurisprudence) to clarify al-Juwaini's position on the principles of analogy, and I have clarified this through what the commentators of Jama'a al-Jawamah have mentioned, in terms of their agreement or disagreement with Ibn al-Subki in what he attributed to al-Juwayni. I have reached results, including: that al-Juwaini stipulates certainty in the concept of evidence, unlike Ibn al-Subki. Among them: that al-Juwaini does not deny that analogy is one of the principles in every respect. Among them: Ibn al-Subki did not intend to declare opposition in every respect as al-Kurani mentioned, but rather to indicate a more specific meaning, which is that the issue is imposed in considering the status of analogy - in terms of its essence and reality - from the nature of the principles, so there is no problem then; since al-Juwaini considers it outside of it, while it is from it according to Ibn al-Subki.

Keywords: clarification - al-Juwaini - analogy - Fundamentals of Jurisprudence.

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Introduction

Praise be to God, much praise, good and blessed be to Him, as our Lord loves and pleases, and peace and blessings be upon His Prophet and His chosen one, His pure family, and His good companions, as long as night and day succeed each other.

¹ Rafae Al Hajib(135/4)

Importance of the topic:

The topic is important in terms of its relevance to the evidence of legislation, as well as in terms of its relevance to Imam al-Juwaini - one of the prominent fundamentalists - as well as clarifying the words of the Imams and understanding them in the correct way, which leads to the purpose and intent of its author.

Problem of the study:

The issue of the study is summarized in Ibn al-Subki's attribution to al-Juwaini that he does not consider analogy as one of the principles of jurisprudence; Ibn al-Subki said: (And analogy is one of the principles of jurisprudence, contrary to Imam al-Haramain)

Research Objectives:

First: Explain the disagreement between Ibn al-Subki and al-Juwaini on the fact that analogy is not an asset of jurisprudence.

Second: Clarifying the face of this disagreement between the two Imams, in terms of explaining the viewpoint of each Imam, and indicating who agreed and who disagreed on the issue from the fundamentalists.

Third: Explaining al-Juwaini's position regarding analogy in the fundamentals of jurisprudence.

Previous studies:

After research and extrapolation, I did not find a study related to the topic of the research.

Research methodology:

In studying the research topic, I followed the method of induction, as I collected everything related to the study of the issue from its original sources, as well as the method of analysis with regard to clarifying what Ibn al-Subki attributed to al-Juwaini, in that he does not consider analogy as one of the principles of jurisprudence, through what the commentators of Jama'a al-Jawamah have mentioned.

My research process

A - I attributed the statements to their sayers.

B - I documented the quotes from their original sources.

C - I omitted the translation of notable scholars so as not to burden the footnotes of the research.

D - I balanced the words of Imam al-Juwaini in his books about the analogy being one of the principles of jurisprudence, with what Ibn al-Subki mentioned.

Research plan:

Introduction: (Importance of the topic, research question, research objectives, research plan).

Preface: There are two requirements:

First: Introducing al-Juwaini.

Second : Introducing Ibn al-Subki.

Study of the issue.

Conclusion and recommendations.

Preface

Requirement one : Introduction to al-Juwaini

Abdul Malik ibn Abdullah ibn Yousif al-Juwaini, known as Imam al-Haramain, also known as Abu al-Ma'ali.

He grew up in a house of knowledge, as his father took care of him in his youth, and Al-Juwaini was interested in seeking knowledge, and among his most famous Sheikhs: His father, Abu al-Qasim al-Furani, and among his students: Imam al-Ghazali.

In the fundamentals of religion, al-Juwaini is considered one of the most prominent Ash'arites, and in the branches of jurisprudence, he was a Shafi'i scholar, and even one of the imams of the school.

Al- Juwaini wrote many works in various sciences. He wrote in the science of the fundamentals of jurisprudence: (Al-Talakhis), (Al-Warqaqat), and (Al-Burhan in the Fundamentals of Jurisprudence), which is one of the most important works of Al-Juwaini, and one of the pillars of the fundamentalist literature.

He died in the year (478 AH).²

The second requirement: Introducing Ibn al-Subki

Abdul Wahab ibn Ali ibn Abdul Kafi ibn Tammam al-Subki. His surname: Abu Nasr. His surname: Taj al-Din, Sheikh al-Shafi'iyya in his time.

He grew up in a house of knowledge, virtue and righteousness, so it is not surprising that he turned to science at a young age and excelled early, as his father, Taqi al-Din al-Subki, combined good education with accurate teaching.

Among his elders: Zainab bint al-Kamal and Al-Hafiz al-Dhahabi, and Ibn al-Subki wrote many books: (Al-Ibhaj Sharh al-Manhaj) and (Jama'a al-Jawama).

He is an Ash'ari, Shafi'i, and his death, may God have mercy on him, was in the year (771 AH).

Study the issue

Ibn al-Subki attributed the statement to Al-Juwaini that analogy is not one of the principles of jurisprudence. is one of the fundamentals of jurisprudence, contrary to Imam al-Haramain.”³

There are several things to be learned from this quotation:

First of them: Ibn al-Subki's choice that analogy is one of the principles of jurisprudence.

Second: Attributing the dissenting opinion to Al-Juwaini.

Third: An account of disagreement on the issue of the fundamentalism of analogy, i.e., whether or not it is one of the fundamentals of jurisprudence.

Fourth: He did not specify the place of disagreement, but rather he said: “Contrary to Imam al-Haramain,” which seems to imply that Al-Juwaini disagrees on the issue of the originality of analogy in every way.

However, al-Kurani discussed Ibn al-Subki's attribution to Al-Juwaini and did not recognize the validity of this attribution, relying on Al-Juwaini 's words indicating that analogy is one of the fundamentals of jurisprudence, in the introduction to the book of analogy in al-Burhan fi Usul al-Fiqh, where it is stated in al-Burhan: “The asset that applies to all facts is the analogy, so it is the asset that is most worthy of the student's attention.”⁴

Al-Kurani said: “There is no doubt that he means the origin of jurisprudence, as it is not one of the true origins of religion unanimously.”⁵

² For more information about Al-Juwaini's biography: Tabaqat Al-Shafi'iyyah by Ibn Al-Subki (5/165-185).

³ For more information about Ibn Al-Subki's biography: Al-Durar Al-Kamina by Ibn Hajar (2/425-428).

⁴ Jamae Al Jawame,p.442

⁵ Al-Burhan (2/743).

From al-Kurani's words, a number of things can be taken, including the following:

First: The strength of the statement is from the explicit statement of Al-Juwaini, and from the book - I mean - al-Burhan, in which he showed his scientific personality, which is the pillar in knowing his choices, especially since the statement is quoted from what is one of the places of research on our issue, i.e.: the beginning of the Book of analogy .

Second: He quoted Al-Juwaini's statement in the text, and made the location of the witness as follows: "It is therefore (i.e., analogy) the most important asset for the student to pay attention to.

He determined the meaning of its indication of what was intended, so he explored and divided, and showed that statement: "The origin that is continuous... is therefore the origin most deserving of attention..." has two possible meanings: the origin is one of the origins of religion, or one of the origins of jurisprudence. Then he prohibited the first based on the agreement that analogy is not one of the origins of religion, so it was determined that he meant the second, and the content of the phrase becomes thus: (Then analogy is the most deserving of the origins of jurisprudence), which is explicit in the inclusion of analogy under the name of the origins of jurisprudence. If this is proven, the validity of the aforementioned attribution is negated, because its meaning is that Al-Juwaini agrees with Ibn al-Subki in establishing the origin of analogy..

Third: Al-Kurani, like Ibn al-Subki, did not specify the place of Al-Juwaini's disagreement, but he made the words of al-Burhan scratch the words of Ibn al-Subki, and this is evident in his consideration that the words of Al-Juwaini and Ibn al-Subki are on the same thing, and from the same side.

In order to clarify this issue in some detail and clarity, I say - with God's help -:

Al-Juwaini's position depends on three premises:

First: He (may Allah have mercy on him) states that the principles of jurisprudence are the evidence of jurisprudence in particular, so anything that is not evidence is not part of this art.

In the place of defining this art, he said: "The fundamentals of jurisprudence are its evidence."⁶

Second: He stipulates that what is considered to be included in this art must be conclusive.

He said: "Should anything in which certainty and knowledge are not sought be included in this art?" It was said: "What has been accepted by the investigators is that anything in which knowledge is not required is not considered one of the origins."⁷

It is clear that his attribution of those who say this to the investigators seems to indicate that he has chosen this view.

The result of considering these two preliminaries is that for Al-Juwaini, the truth of the principles of jurisprudence is conclusive evidence.

Third : analogy is one of the hypotheticals.⁽⁸⁾

He said in the issue of (the establishment of consensus on a ruling established by analogy) (⁹).analogy is presumptive, and has no basis in certainties (¹⁰).

⁶Al-Durar Al-Lawami' (3/371)

⁷Al Talkhees (1/106) and see: Al-Burhan (1/85).

⁸ Al Talkhees(106/1)

If the form is constructed by looking at these three premises, the result is that analogy is not from the principles - as Ibn al-Subki's statement suggests - but a question arises: If it is not from the principles, then what is the point of discussing it in the books of principles in particular?

Al-Juwaini sensed this meaning and answered it, by stating that the decisive indicates the obligation to act upon analogy, and from this aspect it is part of the principles of jurisprudence.

Here are his words that include combining the three premises, and the question that arises from him with his answer to it: Al-Juwaini says: "The evidence of jurisprudence is the auditory evidence and its divisions: the text of the Book, the text of the continuous Sunnah, and consensus (¹¹).

It is clear that these three share in the certainty. Then he said: "If it is said: The details of individual reports and analogies are only found in the principles, and they are not decisive. We say: The share of the fundamentalist is to clarify the decisive in acting upon them, but it is necessary to mention them; In order for the meaning to be clear and the evidence to be linked to it" (¹²).

In this transmission, Al-Juwaini - while in the process of searching for the definition of the term evidence - addressed the very issue of ours, and his words need further clarification:

In his first statement: He divided the evidence into three sections: the text of the Book, the text of the Sunnah, and consensus.

It is apparent from this that what is other than them - including analogy, and individual reports... - is not from the evidence, so they are not from the principles of jurisprudence.

Then he addressed the reason for mentioning analogy - and individual reports - in it, which is what he meant by his last statement: "If it is said: The details of individual reports..."

The gist of his answer is that what is like this of conjectures has one aspect related to the principles, which is the argument in terms of establishing that argument by conclusive evidence - and here he means consensus, as will be explained - indicating the necessity of acting upon it.

If this is known, it becomes clear from it that the argument of analogy - in his view - is from the implications of the evidence - and consensus in particular - so his saying: "The text of the Book, the text of the Sunnah, and consensus" suffices for specifying analogy, not that analogy is not from the principles in every respect - as might be understood at the outset.

It is noted that Al-Juwaini, after this report, took another approach, which is that he dealt with analogy in the chapters of his books as evidence, and even called it that in some places, for example:

First: His statement in the chapter on interpretations: "The purpose of this art is to mention the principles of jurisprudence in their realities, levels, positions, details, and generalities. The principles of jurisprudence are its evidence - as we began the book with - and what the rulings of the Shari'a are referred to, and are believed to be connected. It has three sections: the utterance of the Lawgiver, the

⁹ This meaning is supported by what has been stated - in the aspects of weighting between apparently conflicting evidence - which is correct in that the analogy is one of the hypothetical ones. See Al-Burhan (2/1165).

¹⁰ Image: If Mujtahid rules on a matter by analogy, and the other Mujtahids are silent about it, does it constitute consensus'?

¹¹ Al-Burhan (1/699)

¹² Al-Burhan (1/86), and see: Al Talkhees (1/106).

consensus obtained from the bearers of the Shari'a - who are its scholars - and the paths of deduction from the positions of the Lawgiver, which is analogy (¹³).

Here, one should consider how he made this statement an explanation of what came in the definition of the principles of jurisprudence mentioned in the same book. It should not be overlooked that he stated here that analogy is part of it, which confirms to us that he did not exclude analogy from the reality of the principles of jurisprudence at all, and that he only dispensed with stating it by mentioning what indicated that it is one of the principles, as if after its argument was definitely proven, it became an established proof.

Second: His statement when defining the terminology of the statement: "The true statement – in my opinion – is that the statement is the evidence, and it is divided into the rational and the auditory. As for the rational, there is no order in it in reality. As for the auditory, the basis for it is the miracle, and the establishment of knowledge by the true and true speech of God, the Most High. So whatever is closer to the miracle is more deserving of being presented, and whatever is farther in rank is delayed. The explanation of that is that everything that is received from the wording of the Messenger of God, , by whoever saw him is the meaning of the miracle without an intermediary, and the consensus from where it is felt by a definitive report comes second, and the meanings received from the consensus – including: the report of one person and analogy – come third, then they have ranks in conjectures, and they are not controlled, and our purpose is only to arrange the statement, and from the necessity of the statement is the estimation of knowledge (¹⁴).

There are matters in this transmission, including the following:

First: He made this chapter for the purpose of determining the order of evidence, so he said: "Our purpose is to arrange the statement," and here the situation required some elaboration in mentioning the evidence, not generality as in defining the principles of jurisprudence.

Second: He made the term statement synonymous with evidence, so he said: "The statement is the evidence."

Third: He stipulated knowledge in the statement, i.e. certainty, based on the context; he only said: "And from the necessity of the statement is the estimation of knowledge" in the context of avoiding discussing conjectural issues related to analogy and the individual report, which is his saying: "Then it has ranks in conjectures, and it is not controlled, and our purpose is to arrange the statement."

Fourth: He stated his division of the issues of analogy and the individual report into what is conjectural and what is certain, and that their share of certainty is proving that they are evidence with specifying their rank from it, so what is other than that is avoided by his saying: "Then" which indicates laxity, and he emphasized it by stipulating certainty; since knowledge is from the necessity of the statement.

Fifth: He determined the rank of analogy and individual reports from the evidence, and that they come after the Book, the Sunnah, and consensus, and this is clear that they are from the evidence, i.e.: from the principles.

Sixth: He made the criterion of the order to be the proximity to the miracle, so analogy is based on consensus, and it is based on the report that is the meaning of the miracle without an intermediary - and he stated - here that the basis of analogy is consensus, and he considered it from its meanings, so it is understood that analogy in terms of its argument is included under consensus in his saying: "And the types of evidence are three: the text of the Book, the text of the continuous Sunnah, and consensus."

¹³ Al-Burhan (1/58-86), and see: Al Talkhees (1/106).

¹⁴ Al-Burhan (562/1),

Third: His saying when establishing the argument of the phenomena : If it is said: You know the obligation to act according to the apparent [i.e.: you are certain of it] and linking knowledge to the presumed is impossible, and this they [i.e.: his opponents] repeated this repeatedly, and the path of truth in it became clear; Since we said: The apparent meaning in itself does not establish knowledge of the obligation of action, but rather what is beneficial for knowledge is consensus, so it requires knowledge of the obligation of action, and it is not subject to conjecture, and this is what is applied to the single report and conjectured analogies, and we began the book with that when we tried to explain the nature of the principles of jurisprudence.⁽¹⁵⁾

Two things can be learned from this:

First: Al-Juwaini considers that the share of the apparent meanings of the principles is the establishment of the obligation to act upon them according to conclusive evidence, and he stated here that it is consensus.

The second: Al-Juwaini referred therein - implicitly - to the statement of his opponents, who discussed it with him from this aspect, and said: "And this is what they repeated repeatedly." There is no doubt that among these people there are those who attributed to him the statement that analogy is completely outside the reality of the principles, so he responded to them by explaining the reason for its inclusion in them, and that he did not intend to exclude it from them in every aspect.

Fourth: What mentioned at the beginning of the book on analogy, which is what Al-Kurani relied on in his discussion of Ibn Al-Subki, which is Al-Juwaini's description of analogy as the most deserving of the principles of the student's attention, and it is clear that this statement requires that analogy is one of the evidences.

Summary : Analogy in itself is not one of the principles of jurisprudence according to al-Juwaini, but it is from it in terms of its validity being proven by conclusive evidence. When he defined the principles as evidence, he summarized them in three, and this does not prevent other evidence from being included under each one of them - or under some of them - provided that they are from the implications of at least one of the types of mentioned evidence (¹⁶).

And from the principles of jurisprudence - that is: from the evidence - are conjectures that have been proven to be considered with certainty, so they became - from this aspect - an evidence from the evidences, if they are from their reality outside the principles; because the condition of certainty is not present in them.

Through this presentation, it becomes clear that in al-Juwaini's words there is what suggests that analogy is not from the principles of jurisprudence, as it included what indicates the opposite, so perhaps this is one of the reasons for the difference in the transmission from him. The remaining consideration is the words of the commentators of the text of Jami' al-Jawami', as I have found, al-Kurani was the only one to add to it as previously stated, and as for the rest of the commentators, they were followed behind Ibn al-Subki in his assumption of the disagreement between him and al-Juwaini (¹⁷). Al-Zarkashi said in explaining the reason for excluding analogy from the principles of jurisprudence according to al-Juwaini: "His doubt: that the principles of jurisprudence are its

¹⁵ This is based on a theological issue in the chapter on prophecies. It has been agreed that a miracle indicates prophecy, but the dispute is over the statement that it must be proven by a miracle, as al-Baqillani said, and others followed him in this, including al-Juwaini. See: Kitab al-Nubuwwat by Ibn Taymiyyah (1/549)

¹⁶ Al-Burhan (699/1),

¹⁷ I said: At least, because it may be a meaning of all three together.

evidence, and its evidence is only based on what is certain, and analogy only provides conjecture" (¹⁸). Then he discussed this doubt, defending Ibn al-Subki's choice. I said: I am interested in learning two things from this narration:

The first is: Ibn al-Subki's agreement in the choice, and in the validity of the attribution.

The second is that al-Zarkashi, with this presentation, determines the reason for excluding analogy from the principles, which is that it is conjectural, and al-Juwaini stipulates certainty in the evidence, so analogy was not among the evidence according to him, so it was not among the principles, and it is sought from this that al-Zarkashi's main point is what al-Juwaini wrote in his definition of the principles of jurisprudence as evidence with his stipulation of certainty in it. Close to it - with more clarification - is what Al-Mahalli (¹⁹) - and those who agreed with him (²⁰) - went to, where he commented on the collection of comprehensives with the following text: "And analogy (is one of the principles of jurisprudence) as is known from its definition (contrary to the Imam of Al Haramain) in his saying that it is not from it, but rather it is explained in his books, because the purpose of the fundamentalist in proving its argument, which jurisprudence depends on, on its explanation" (²¹). This statement - despite its brevity - included many meanings, as Al-Mahalli explained the words of Ibn Al-Subki while recalling the combination between Al-Juwaini's position on analogy, and what he made the reason for his discussion in the books of principles, in order to know the aspect of disagreement between Al-Juwaini and Ibn Al-Subki, and Al-Mahalli's words revolve around two axes

Axis one: Linking our issue to what was edited when defining the principles mentioned in the first book of Jami' al-Jawami', which is the statement of Ibn al-Subki: "The principles of jurisprudence: general evidence of jurisprudence (²²), which al-Mahalli had previously explained by saying: "That is: the non-specific, such as the absolute command and prohibition, the action of the Prophet, *peace and blessings be upon him*, consensus, analogy, and accompanying (²³).

However, he did not show us the result of returning the issue to the definition (²⁴).

What appears to me is that al-Mahalli intended to highlight the essential difference between the position of Ibn al-Subki and the position of al-Juwaini, which is: that although they agreed on interpreting the principles with evidence, they differed in defining the concept of evidence. As for Ibn al-Subki, he defined it as "what can be reached through it to a news requirement (²⁵), that is: without requiring certainty, as

¹⁸ See: Tashneef Al-Masame' (3/305-306), Al-Ghaith Al-Hame' (2/792), Al-Badr Al-Tali' by Al-Mahalli (2/2-7-208), Al-Diya' Al-Lame' by Halulu (p. 416), Al-Thamar Al-Yawani' (p. 386), Al-Ansari's commentary on Al-Mahalli's explanation (3/489), Al-Tiryaq Al-Nafi' (2/156).

¹⁹ Tashneef Al-Masame' (3/305-306),

²⁰ It is closer to the work of Al-Zarkashi in Al-Bahr Al-Muhit (5/27-28).

²¹ Among them are Al-Azhari in Al-Thamar Al-Yawani' (p. 386), Al-Ansari in his commentary (3/489), and Ibn Al-Shihab in Al-Tiryaq (2/156).

²² Al-Badr Al-Tali' (2/307-308)

²³ Jami' al-Jawami' (p. 202).

²⁴ Al-Badr al-Tali' by al-Mahalli (2/78)

²⁵ There was a long discussion about how al-Mahalli related the definition of the principles to our issue, which can be found in: Al-Ayat al-Bayyinah (4/232-233), Hashiyat al-Banani (2/322), and Hashiyat al-Attar (2/379-380).

al-Mahalli - and others - stated when commenting on the text of Jami' al-Jawami' by saying: "And the meaning of reaching it [that is: to the news requirement] with what was mentioned: his knowledge or his assumption (²⁶).

It is known that al-Juwaini stipulates knowledge in the evidence, and that which does not benefit him is not evidence, and therefore he needed - without Ibn al-Subki - to prove the reason for including analogy in the books of Usul. This reason is supported by what some of al-Mahalli's followers have said; where they understood from his link between our issue and the definition of Usul that is referring to the difference between al-Juwaini and Ibn al-Subki in stipulating certainty in the evidence, and they based al-Mahalli's words on it, although he did not explicitly state that.

Al-Ansari said: "His saying: (in contrast to the Imam al-Haramayn) in his saying: it is not from it, meaning: because the evidence is only applied to the certain, and analogy is conjectural" (²⁷). The same is in al-Tiryaq al-Nafi' (²⁸), which is what al-Zarkashi explicitly went to before al-Mahalli as is known, and as for what al-'Abbadi went to, there was a lot of taking and giving in it, and no clear benefit was derived from it, unlike what al-Ansari mentioned; as it is consistent with al-Juwaini's position, and based al-Mahalli's words on it is more appropriate, safer and clearer.

Axis two : Al-Mahalli agreed with Ibn al-Subki that analogy according to al-Juwaini is not one of the principles of jurisprudence, while stating that al-Juwaini apologized for introducing analogy into the principles of jurisprudence, which included a subtle indication that analogy is not foreign to the principles of jurisprudence in every respect according to al-Juwaini.

Preference:

Ibn al-Subki stated the disagreement between him and al-Juwaini, and did not specify its aspect, and from here his action became subject to one of two things:

One of them: He intended to state the disagreement between him and al-Juwaini in every aspect, such that it is understood that al-Juwaini excludes analogy from the reality of the principles of jurisprudence absolutely, and if that is what he meant, then it is closer to the truth to clarify it, and it is known, and it is unnecessary to repeat it here, that al-Juwaini does not deny that analogy is considered one of the principles in every aspect, and what al-Kurani relied on confirms this meaning, except that this possibility is remote; because of what appears from Ibn al-Subki's experience with al-Juwaini's school of thought (²⁹), so I do not see him missing what he stated in the summary.

Second: He did not intend to declare the opposition - in every respect - as Al-Kurani based his objection on - but rather to point to a more specific meaning, which is to impose the issue in considering the status of analogy - in terms of its essence and reality - from the nature of the principles, then there is no problem; since Al-Juwaini considers it outside of it, while it is from it according to Ibn Al-Subki.

Consider in this what Al-Juwaini said in his report on the argument of phenomena : "We said: The apparent in itself does not establish knowledge of the obligation of action, but rather what restricts knowledge is consensus... We apply this to the single report and the presumed analogies, and we have introduced the book with this when we tried to explain the nature of the principles of jurisprudence" (³⁰).

²⁶ 8888888888888

²⁷ Jami' al-Jawami' (p. 202).

²⁸ Al-Badr al-Tali' (1/116)

²⁹ Hashiyat Zakariya al-Ansari (3/489).

³⁰ Al-Tiryaq al-Nafi' (2/156)

If this is known, it becomes clear with it that what Al-Kurani added does not invalidate Ibn Al-Subki's words, but rather it is outside the subject of the dispute; since it is carried over to what comes after establishing the argument of analogy by decisive consensus; because the argument of analogy is one of its implications according to Al-Juwayni.

The secret of the difference that causes disagreement between al-Juwaini and Ibn al-Subki is that Ibn al-Subki does not stipulate certainty in the concept of evidence, unlike al-Juwaini. Therefore, he needed - rather than the author - to explain the reason for discussing analogy among the scholars of the principles of jurisprudence.

This second possibility is more apparent in my opinion, and based on it, it became clear to me that Ibn al-Subki's position is correct, and that what al-Kurani and others have mentioned is outside the scope of the dispute, because it depends on an external matter – which is the decisive evidence of the argument of analogy – and as for Ibn al-Subki's words, they are assumed in the discussion of the principles of analogy in terms of its essence and reality, and on this basis the disagreement between the two parties is realized.

Conclusion and Recommendations

After completing the study of the subject, I reached the following results:

First: Analogy in itself is not one of the principles of jurisprudence according to al-Juwaini, but it is from it in terms of establishing its argument through conclusive evidence.

Second: al-Juwaini stipulates certainty in the concept of evidence, unlike Ibn al-Subki.

Third: al-Juwaini does not deny that analogy is considered one of the principles in every respect.

Fourth: Ibn al-Subki did not intend to express opposition in every respect, but rather to point to a more specific meaning, which is that the issue is imposed in considering the status of analogy in terms of its essence and reality from the nature of the principles, so there is no problem then; since al-Juwayni considers it outside of it, while it is from it according to Ibn al-Subki.

Recommendations:

1-Paying attention to the discussions of analogy among the scholars of the principles of jurisprudence.

2-Paying attention to understanding the words of the scholars of the principles of jurisprudence, and clarifying their meaning, purpose, and source, especially if there is a correction or follow-up.

Sources and References

1. The clear verses on the invalidity or corruption of what I have come across from what was brought up in Jami' al-Jawami' and its explanation by al-Muhaqqiq al-Mahalli of objections, by al-Abadi, Ahmad bin Qasim, d. 994 AH, Dar al-Kutub al-Ilmiyyah edition - Beirut, 1st edition - 1417 AH - 1996 AD.
2. Guidance to the decisive evidence in the principles of belief, by al-Juwaini, d. 478 AH, achieved and commented on by: Muhammad Yousif Mousa, Ali Abdul-Moneim, publisher: Maktabat al-Khanji - Egypt - published: 1369 AH - 1950 AD.
3. Al-Burhan fi Usul al-Fiqh, by al-Juwaini d. 478 AH, edited by Salah Awida, 1st edition, Dar al-Kutub al-Ilmiyyah - Beirut, 1st edition - 1418-1997
4. Al-Tiryaq al-Nafi' bi Idah wa Takmil Masa'il Jami' al-Jawami', by Ibn Shihab al-Alawi d. 1341 AH - Edition of the Encyclopedia Council - Hyderabad 1317 AH.
5. Tashneef al-Masame' bi Jami' al-Jawami' by Taj al-Din Ibn al-Subki, by al-Zarkashi d. 794 AH, edited by: Abdullah Rabi' and Sayyid Abdul Aziz, Cordoba Foundation edition, 2nd edition, 2006 AD.
6. Al-Talkhees fi Usul al-Fiqh, by al-Juwaini d. 478 AH.
7. Al-Durar al-Lawami' fi Sharh Jami' al-Jawami' by al-Kurani d. 893 AH, achieved by: Saeed al-Majidi, Edition of the Islamic University - Medina, 1st edition, 1429 AH - 2008 AD.

8. Lifting the eyebrow from Ibn al-Hajib's summary, by Taj al-Din Ibn al-Subki, d. 771 AH, edited by: Ali Muhammad Mu'awwad and Adel Ahmad Abd al-Mawjud, Alam al-Kutub edition - Beirut, 1st edition, 1419 AH - 1999 AD.
9. Prophecies by Ibn Taymiyyah, Ahmad ibn Abd al-Halim d. 728 AH, achieved by: Dr. Abdulaziz al-Duwayyan, Adwa' al-Salaf edition - Riyadh - 1st edition, 1420 AH - 2000 AD.
10. The ripe fruits on the principles of collecting comprehensive books, by Khalid al-Azhari d. 905 AH, achieved by: Muhammad al-Yaqoubi.
11. The commentary of Sheikh al-Islam Zakariya al-Ansari on al-Mahalli's explanation of collecting comprehensive books, by Zakariya al-Ansari d. 926 AH, achieved by: Murtada Ali al-Daghistani, published by Maktabat al-Rushd - Riyadh - 1st edition, 1428 AH - 2007 AD.
12. Al-Attar's Commentary on Jami' al-Jawami', by Hassan al-Attar, on the explanation of al-Jalal al-Mahalli, d. 1250 AH, with a report in the margin by Abd al-Rahman al-Sharbini and Muhammad Ali al-Maliki, published by Dar al-Basa'ir, Cairo, 1st edition, 1430 AH - 2009 AD.