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THE QURANIC FOUNDATION FOR MIND (RATIONAL) RULING (AUTHORITY) OVER LEGISLATIVE TEXT

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ABSTRACT

The current study investigates the authority or governance of mind over legislative text of sharia law across different Islamic doctrines. Intellect or mind is assigned a high status in the Holy Quran and Noble Sunnah. However, in practice, Islamic sects have different views in observing and activating that status as indicated by the analysis and results of the current study. It is also indicated that the judging of mind is basically consistent with the rulings of sharia. This view is highlighted in mainly and for the most part by the Imamist doctrine who consider mind as the fourth source of law-making following the Holy Quran, the Noble Sunna, and Consensus.

Keywords: *Foundation, Intellect, judgement, jurisprudence, mind, reason, ruling, sharia law*

INTRODUCTION

Allah Almighty created man in the finest and most perfect way, and favored him over the rest of the earthly creatures for He, the Almighty Says, **{We have certainly created man in the best of stature}** 95/4. Thus, He bestowed upon man the bless of mind and intellect and honored him with sharia assignment (canonical law) to be the vicegerent of Allah on earth ruling on it in accordance with the merits that the Almighty has deposited in man. Hence, the Almighty says, **{And when thy Lord said unto the angels: Lo! I am about to place a vicegerent on earth, they said: Wilt thou place thereon one who will do harm thereon and shed blood, while we, we hymn Thy praise and sanctify Thee? He said: Surely I know that which ye know not}** 1 / 30.

With sound mind, a pure one, vicegerency is assigned according to what God Almighty wills. On the other hand, the

Holy Qur'an has never ceased to call for mind activation. Moreover, it encouraged liberating and emancipating minds from their captivity. Many Quran verses called for adopting the mind in looking at, thinking of and meditating over the universe, creatures and creativeness of God Almighty. Likewise, the Sunnah, namely the Prophet's traditions (sayings and behaviors), presented frequent hadiths (sayings) by the Prophet (peace be upon him and his family; henceforth pbuh) and his family, and the infallible (pbuh) calling for and highlighting the importance and status of role and function of the mind as well as its significant role in life.

Therefore, it is observed that the Imamate cult (twelvers) considered mind to be the fourth source of Islamic legislation and adopted it in explaining and interpreting many Quranic verses, based on the perceptions of theoretical rational ruling or judgement and practical rational ruling according to the rule of consistency which

states that what sound mind decrees is consistent with what Allah decrees. Thus mind sometimes decrees things are bad and others are good, contrary to what we see by the majority who rely on the surface meaning of the verse in explaining and interpreting. Thus they did not place value on mind; to them what is good is that which the Sharia considers as good and the bad is whatever is deemed bad by Sharia law.

THE CONCEPTS OF TITLE EXPLAINED

The meaning of *Ta's'eel* (Foundation)

1. Linguistic meaning of *Ta's'eel* (Foundation)

Ibn Faris states that the word (*a's'il* أصل), of *hamza* (glottal stop/أ), (*s'/ص*) and (*l/ل*), has three dissimilar etymologies, first, the *basis* of things, as in, لا أصل له ولا فصل (they have neither basis nor determination); meaning, neither basis (of lineage) nor eloquence (tongue) ⁱ.

The origin of something also, is its base (or root), which if it were to be uplifted, the whole thing will be lifted as well. Therefore, the Almighty said, **{Its roots are firm, and its branches are in heaven}**ⁱⁱ. Hence, the Arabs say, تَأَصَّلَ كَذَا (to be originated (based) or originate (base), or basic (original) glory), and لا أصل له ولا فصل (they have neither basis nor determination)ⁱⁱⁱ.

2. The conventional meaning of *Ta's'eel* (Foundation):

The *as'il* (basis) according to Al-Jarjani is what other things are built on, without being built on others, and it is what proves its truth by its own and is based on others^{iv}. Al-Jarjani's definition states that the *Ta's'eel* (Foundation) is establishing and building on the basis, starting from it, and associating to it.

Foundation is a matter of examining the matters and issues that are to be judged by referring them to the rule to be applied, instead of examining them independently as something that has no basis.

The meaning of *h'akimiyah* (Ruling):

In this section, the meaning of *hakimiyat* (Ruling) is explained linguistically and conventionally:

1. Linguistic meaning of *hakimiyat* (Ruling):

H'akimiyah (ruling) is a derivational source that performs the same meaning as that of the root source [*h'ukm* / rule (n)], both of which have the linguistic root, (*h'.k.m* / r.u.l). However, there are those who differentiate between *h'akimiyah* الحاكمية and *h'ukm* حُكْم in that the latter by itself is a noun for an event, whereas the former is a noun for it as cited:

Ibn Faris states, "The h', k, and m in حَكَمَ have one root, which is prohibition. The

first of that is the (h'ukm حَكْم / ruling), which is prohibition of injustice. Hence, was said (h'ikmat/rein) of a sumpter because it prohibits its movement. The Arab also say, I (h'akamtu/ ruled) the retard and I (ah'kamtu/grabbed) his hands^v.

Ruling (h'ukm حُكْم) means judging; hence it is said, he (h'akama حَكَّمَ /judged, adjudicated) in their dispute. On the other hand, (h'akam حَكَم/ a judge) could mean wise from (h'kmah حَكْمَة /wisdom) from knowledgeable and wise-man. Also, there is the verb (h'akama حَكَّمَ/became a wise-man) , and (ah'kamahu أَحْكَمَ/to fasten and أستحکم /became fastened). Moreover, there is (h'akama حَكَم/ arbiter and h'akkama حَكَّم/ to assign an arbiter) to give someone the authority of arbitration^{vi}.

As for Al-Ragheb Al-Isfahani, he is reported to have said that the (hakam, حَكَم to rule) is to decree something as a verdict whether abided by or not^{vii}. The Quran says,

{And when you judge between the people, that you judge with justice}^{viii} and {As shall be judged by two men of equity among you}^{ix}.

2. Conventional meaning of h'akimyah (Ruling):

Al-Jarjani establishes that ruling is referring some issue to another, whether positively or negatively, concluding what is not ruling as restrictive relation^x.

Al-Mawdudi mentions that *h'akimyah* (Ruling) is a word referring to supreme authority and absolute authority according to the modern terminology of politics, and that the law is enacted by the will of the ruler, and obedience must be offered by the individual. Hence, there is no law that restricts the ruler or obliges him to obey anyone; he is the omniscient^{xi}.

Dr. Muhammad Ahmad Jamal points out that a Muslim ruler has to realize with full certainty that he does not own the Islamic state which he rules, but rather it is the kingdom of Allah, to Whom he is a vicegerent in that kingdom to look after in accordance with the orders and prohibitions of Allah Almighty, without trespassing the limits and boundaries drawn, seeking the pleasure of Allah^{xii}.

Ruling, then, means singling out Allah as the One and Only God and recognizing His Lordship alone, the Almighty, as one of the most significant characteristics of deity, meaning it is the supreme power or absolute authority, and whatever it decrees is right^{xiii}.

Sayyid Qutb illustrates that despite being a pure right to God Almighty, *ruling* is general and comprehensive. So with the recurrence of new events and the highlighting of the Sharia onto the totalities and leaving the details for Ijtihad (independent jurisprudent) according to the

change of interests with the change of time and place, it did not deny the right of human beings for Ijtihad according to the conditions established under the umbrella of the Divine Ruling in what had not been stated by Sharia Law. Ijtihad is governed by the principles established in the constitution of Allah Almighty himself. Thus, the ruling does not deny human jurisprudence according to its Sharia terms following the requirements of human interest with the changing times and conditions^{xiv}.

Therefore, the intended ruling of al-Mawdui and Sayyid Qutb is the legislative ruling, is an authentic Islamic concept. It means that Allah Almighty is the legislator for His creation; He permits and forbids them. Yet, it does not prevent human beings from having some degree of legislation, rather it prevents them from having independence with unauthorized legislation, such as pure religious legislation. As for legislation in what is not stipulated or in the absolute interests, it is the right of Muslims^{xv}.

Al-Subhani states in his *mafahim al-Quran* (the concepts of Quran) under Ruling Monotheism that Ruling and Governance in the Qurabic logic is solely to Allah alone and that no one has the right to rule and govern the servants of Allah independently. He also states that there is no legislative ruling for others except

when that ruling is derived from the Divine ruling and governance^{xvi}.

THE STATUS OF MIND IN THE ISLAMIC SYSTEM

Mind (reason/rationality) has a high position in Islamic law. The Holy Quran and the Sunnah of the Prophet urge for the use of reason and ban its neglecting:

The status of mind in the Holy Quran and the Sunnah:

In this section, the position of mind in the Holy Quran is explored by addressing some of the Quran verses calling for reflection and reason. Moreover, clarifying the position of mind in the Prophetic Sunnah is explicated by addressing some of the holy Prophetic hadiths (sayings).

1. The Status of Mind in the Holy Quran:

One of the greatest blessings of Allah Almighty to man is the mind, in which the most beneficial innate powers deposited by Allah Almighty is realized. Hence, the Holy Quran has given the mind a great position, and manifested that position by urging on rationalizing, meditating and reflecting, and making assignment conditional to it.

The Almighty Allah said, **{Surely in the creation of the heavens and earth and in the alternation of night and day there are signs for men possessed of minds}**^{xvii}.

It is a clear call to contemplate the blessings of Allah Almighty. Meditating Him, may He be glorified, is impossible, since it requires grasping knowledge of who is encompassing everything, for Allah owns the command of those in both of them and is capable of their punishment. As for his saying “signs”, it means clear evidence of the monotheism of Allah, his greatness and his power. His saying, “for men possessed of minds” means for those with minds pure in sense free of blurs of illusion; hence they ponder with their minds and see and find them in line with symptoms of inseparable innovations. And whatever is inseparable from innovations is an innovation itself, and its occurrence indicates that it has an innovator and founder. Thus, they are guided to the maker being the king, the omniscient, the omnipotent and the wise^{xviii}.

Also in the Quran, the Almighty says, **{And [in] the alternation of night and day and [in] what Allah sends down from the sky of provision and gives life thereby to the earth after its lifelessness and [in His] directing of the winds are signs for a people who reason}**^{xix}.

The alteration of night and day with its darkness and dimness, the rains that give life to the earth by planting and sowing, the directing of the winds, the diversity of its types, its different directions; south and north, and its many benefits and

advantages need deep thorough intellectual reasoning or rationalism rather than shallow simple one. Therefore, they were for people who reason. Although the signs are for everyone, but those who benefit from them are singled out. He also said, **“signs for a people who reason”** that is, they distinguish between truth and falsehood, good and bad with the mind that Allah Almighty has placed in them, they recognize evidence and arguments for Allah over His creation, and they understand of him what He preached of the verses and lessons^{xx}.

The Almighty also says, **{We shall show them Our signs in the horizons and in themselves, till it is clear to them that it is the truth. Suffices it not as to thy Lord, that He is witness over everything?}**^{xxi} Hence, showing in the verse is only possible through a mind that understands the verses of Allah and thinks of their sense, by linking relationships of phenomena and reasons to reach the truth. Hence, the meaning is, we will show them our arguments and our evidence for what we preach them of monotheism and what is entailed in the horizons of the world and the confines of the sky, earth, sun, moon, stars, mountains, seas, trees, beasts and in themselves; what they carry of subtleness of creation and deposits of wisdom until it appears to them that it is the truth. Also, the utterance: (We shall show them) is in

the present tense which denotes continuity, and if a person lived hundreds of thousands of years, it would be revealed to him at all times^{xxii}.

God Almighty says, **{He gives the wisdom to whomsoever He will, and whoso is given the Wisdom, has been given much good; yet none remembers but men possessed of minds}**^{xxiii}. The meanings of the word (wisdom) varied in the holy verse; however, the reliable meaning is mind (reason) and understanding or: reasoning in Allah's religion^{xxiv}, based on what was reported by Imam Musa bin Jaafar (PBUH) that wisdom is reason and understanding^{xxv}. In addition, the interpretation of the Almighty's saying: **"yet none remembers but men possessed of minds,"** namely, no one will take them as lessons except those who possess minds who have reasoned Allah's and prohibitions and commands. Therefore, He, the praised, explains that the reminder is applicable only for the people of reason and intellect^{xxvi}.

Another verse is, **{Have they not pondered in themselves that Allah has not created the heavens and the earth ...}**^{xxvii}, meaning, have they not thought about themselves for it is closer to them than anything else. That self is like a mirror which reveals for them all that could be sought. Man has a reasoning mind if used in pondering over that

universe and its system, it would enable him of realizing that the one who created the universe is likewise able to annihilate and restore it. Hence, if they think well and refer to their mind and intellect in judgment, they will know that the world and its systems were created on the basis of truth, and this is evidence that the Creator of this world has the full power over this creation^{xxviii}.

2. The Status of Mind in the Prophetic Sunnah:

It has become clear now that the Holy Quran urged the use of reason, as one of the greatest divine gifts. However, this was not confined to the Holy Quran, hence, the Prophetic Sunnah, which is the second source of Islamic legislation, has also called for the active employment of reason and it:

Many prophetic maxims called the mind to think and meditate, such as the hadith, "a person's worth is his mind, and a mindless man is a religionless man"^{xxix}.

In Al-Kulayni's *Usul Al-Kafi*, Imam Abi Jaafar (peace be upon him) was reported to say, "When Allah created the mind, He asked it to speak and ordered it to come, then it came, then He asked it to leave and so it did, then He said, "by My glory and almightiness, I have not made a creature more precious to me than you, and I will not perfect you except in those who

are dearest to me. It is through you that I shall order, prohibit, punish, and reward”.^{xxx}

Hence, interrogating the mind here is not limited to asking it to speak, but rather showing the meaning of (speaking to it). It is often a person is spoken to with something they cannot understand for a specific purpose. It shows that Allah Almighty is able to making the mind speak as in the verse saying, {... , **they shall say: Allah Who makes everything speak has made us speak**}^{xxxi}. Also, the speech may have been intended to mean comprehend and perceive, meaning that God Almighty asked the mind to be a guide to his monotheism (or singleness) for his servants, and inform them of his sovereignty by meditating about him^{xxxii}.

It is also reported in the Noble Sunnah that “Allah the Exalted, has perfected the arguments for the people with minds, made the prophets victorious with the faculty of statement, and guided them to his lordship with evidence”^{xxxiii}. Hence, the *argument* here may mean proof and reason, the reason being an implicit argument, and the prophets (peace be upon them) are the explicit arguments of Almighty^{xxxiv}.

It was narrated that Imam Musa bin Jaafar (peace be upon him) had said: “Everything has guide, and the guide of mind is reasoning ...”^{xxxv} The word “guide”

mentioned in the hadith means the existing things, referring to what their ontology or epistemology is necessary of terms of causes, and effects, and the phrase, “the guide of mind is reasoning,” that is, the mind must think, consider the gates of knowledge and the conditions of the principle, resurrection and what follows. Hence reasoning is considered a guide to the mind, because by mind a man moves from the realm of ignorance to the higher real world^{xxxvi}.

Allah Almighty Has made the intellect an inner argument to be used as evidence against man, as in, “Allah has two arguments against people: an apparent argument, and a hidden argument, as for the apparent one, it is the messengers, prophets and imams (peace be upon them), and the hidden ones are the intellects^{xxxvii}.”

It is doubtless that the sound innate intellect is part of the argument of God Almighty and it is consistent with the Sharia law, or even more, it is a law from within as well as, so the mind may reason things before the law does, then, the law supports it. Otherwise, the mind may fail to realize it, hence comes the law to reveal it and clarify it. This evidence indicates the value of the innate pure mind which is free of delusions and bigoted distortions, in which sense, it is a divine argument, for its awareness with illuminative clarity and the originality of its instincts, to some legal

assignments, and accepting the unknown of them when offered by Sharia. Hence, it is more general than whether or not the mind is aware or comprehending these assignments^{xxxviii}.

Mind as an Islamic source of legislation

1. Mind from Islamic jurists' perspectives (Islamic sects-Imamism)

The sources of Islamic legislation varied in the Sunni doctrines, to which the Holy Quran was central as a basic source of Sharia provisions, followed by the noble Sunnah; the hadiths of the Prophet, may (peace be upon him and upon his family) and what was reported through his companions and followers. Moreover, consensus and *ijtihad* of all kinds, such as analogy, approval and interest, all of which being flexible sources underlined and approved by the Islamic Sharia. These sources provide the provisions necessary to deal with the facts stated in explicit texts. The provisions through these sources are part and parcel of the Islamic Sharia since they are confirmed as authentic by the Sharia itself^{xxxix}.

The majority (of Sunni scholars, the *Jomhoor*) did not assign any position mind with high status. Rather, they adopted the surface interpretation of many Quranic verses, according to their jurists and exegetes, unlike the doctrine of the

Imamism who emphasized reasoning as a fourth source of Islamic law. The following are some Quranic samples for which the Sunni scholars adopted the surface meaning:

About witnessing in the Almighty said, **{And call in to witness two witnesses, men; or if the two be not men, then one man and two women, such witnesses as you approve of}**^{xl}. The majority (of Sunni scholars) had different views on witnessing; some established that a verdict is stipulated with two witnesses without the plaintiff's oath, others said that oath is necessary. They agreed that money related cases are testified by a male witness and two female witnesses, and they disagreed on whether accepting them in penalties, so the majority do not accept women's testimony in issuing penalties, neither with a man nor solely. As for surfacists (*Zahiris*), they established that testimony is accepted if women were accompanied by a man when there are more than one woman in everything, drawing on the surface meaning of the verse^{xli}.

In the ablution verse, the Almighty says: **{O believers, when you stand up to pray wash your faces, and your hands up to the elbows}**^{xlii}. The majority (*Jomhoor*) unanimously agreed on the rituals in which ablution is a condition including prayer, touching the Holy Quran, etc. On the other

hand, they disagreed on as whether it is permissible in ablution (purity) for more than one prayer, so it is well known that Malikis it is not permissible for two mandatory prayers at all. Abu Hanifa saw that it is permissible to combine mandatory prayers with one tayammum (using dust in lieu of water), depending on the surface meaning of the verse^{xliii}.

With regard to the issue of offering in Hajj Almighty says, **{Fulfil the Pilgrimage and the Visitation unto God; but if you are prevented, then such offering as may be feasible. And shave not your heads, till the offering reaches its place of sacrifice. If any of you is sick...}**^{xliv}, the Jomhoo had different views on whether or not the prevented, if aware of the offering, can have an alternative. Al-Shafei says; there is no alternative and the offering is his debt, and so said Abu Hanifa. Their argument is based on that the Almighty Has enjoined upon offering upon the prevented individually, and what is confirmed as an alternative to him. Or that he has an alternative that he can resort to, which is Ahmed's (Ahmad Bin Hanbal) view. Regarding the issue of disentanglement from ihram (consecration in hajj) or staying with it, Abu Hanifa verdicts keeping on his ihram until he finds the offering, which is the apparent meaning indicated by the verse^{xlv}.

In expiation the Almighty says, **{Allah will not take you to task for a slip in your oaths; but He will take you to task for such bonds as you have made by oaths, whereof the expiation is to feed ten poor persons with the average of the food you serve to your families, or to clothe them, or to set free a slave; or if any finds not the means, let him fast for three days.}**^{xlvi} Al-Shafie establishes that only freeing a slave is possible in mandatory expiation, such as expiation for killing, swearing an oath, *zihar* (when a husband says “you are to me like my mother” which means abandoning the wedlock and self-forbiddance of intercourse that requires freeing a slave), and intercourse during the daytime in Ramadan. His evidence is the Almighty’s words regarding expiation for killing, **{It belongs not to a believer to slay a believer, except it be by error. If any slays a believer by error, then let him set free a believing slave}**. So he divided them into conditional and unconditional for all, the unconditional was dependent on the conditional. Abu Hanifa agreed with him in the expiation for killing, but he permitted in other cases the freeing an unbeliever according to the surface meaning of the verse^{xlvii}.

For the traveler and the sick’s fasting, the Almighty says, **{for days numbered; and if any of you be sick, or if he be on a**

journey, then a number of other days...} ^{xlviii} Hence, the sick and the traveller, have a given number of days to fast as many as the days of sickness or travelling. Thus, breaking that fast is permitted, so the sick and traveller can choose between fasting or breakfasting according to most scholars. However, Abu Hanifa and Malik maintain that fasting is more preferable, whereas Al-Shafie'i, Ahmad (Bin Hanbal) and Al-Awazaei state that breakfasting is more preferable. The Zahiris decreed that breakfasting is mandatory for travellers and ailed people and if they fast, their fasting is illegitimate as it is before the time which is what the verse apparently conveys ^{xlix}.

As for the Imamism doctrine, mind was considered the fourth source of Islamic legislation, after the Holy Quran, the Sunnah of the Prophet, and Consensus. Mind is therefore the hidden argument that God Almighty invokes against the servants. Hence, by the ruling of mind the ruling of Sharia is explored, for the correlation between the ruling of mind and the ruling of Sharia and the impossibility of separating them¹.

The status of mind was explained by the author of *Jami' Al-Saadat* (Collector of Joys): "The mind is the argument of Allah that must be obeyed, and the just ruler whose rulings are identical to reality of the same issue, so His judgment is not to be

defied, so without it the Sharia would not be known^{li}." It is a clear and explicit statement in explaining the authority of mind, which is the paving way for the explanation of Sharia.

Moreover, it is imperative to provoke the mind by asking it questions. This is what the Commander of the Faithful, Imam Ali (peace be upon him) indicated in one of his sermons of *Nahj al-Balaghah* when he explained the reason behind sending the prophets, he said, "... and He (Allah) selected prophets from his (Adam's) offspring and took their covenant with the revelation and their honesty of delivering the message when most His creatures changed His pledge, and they were ignorant of His right, and they sided Him with peers..., so He sent them His messengers and successively sent along with them His prophets to maintain their fulfilment of His covenant of creation, remind them with His forgotten blisses, invoke the preached argument to them, uncover in them the treasures of minds, and show them the predestined signs of their upper ceiling and lower floor..^{lii}."

Hence, his saying peace be upon him, "uncover in them the treasures of minds." namely incite them through evidence of monotheism and deism, and show them the predestined signs, as the Almighty an said in the creation of the heavens and the earth

and the alternation of night and day and astronomy that take place in the sea for the benefit of the people and what God sent down from heaven From water, so he will live with it on the earth after its death ... Signs of a people who rationalize any signs and signs of power until they look at it with a view of accuracy and consideration, and their minds are excited for that^{liii}.

And through his sermon (peace be upon him) he defined the functions and tasks of the prophets, which is to remind of the God's blisses to his servants, and invoke argument against them by guiding their minds until they ponder and contemplate on the creation of Allah and its effects that indicate his might and greatness. Also, to guide people to the legitimate doctrines of life, and warn them of what is forbidden, because the world is leading them to extinction^{liv}.

Sheikh Al-Muzaffar quoted Sheikh Al-Mufeed to have said in his Fundamentalist Treatise summarized by Sheikh Al-Karajeki, where he stated that the fundamentals of rulings are three: the Quran, the Sunnah of the Prophet, and the sayings of the (twelve) Imams (peace be upon them). Then he mentioned that the three methods leading to these fundamentals are: the tongue (saying), the reporting, first and foremost is the intellect. He continued that the mind is a way to know the argumentativeness of the

Quran and the indicativeness of the reporting^{lv}.

Man is by nature capable of activating the role of intellect to uncover the secrets of nature. However, motivating the mind to realize absolute perfection and planning to embark on the path of the supreme goal of humanity is only possible for the prophets. Also, all that is mentioned in the Holy Quran and the Sunnah about intellect and ignorance and the qualities of the mind and its characteristics, effects and rulings indicate to that. When a person escalates to the peak of intellectual life in the light of the teachings of the prophets, knowledge and insight crystallize in him. Then, error cannot find its way to him, and that knowledge remains with him until he attains the peak of human perfection^{lvi}.

2. Mind from the fundamentalists' perspectives (the theory of mental (dis)approval)

Fundamentalists divided the ruling of mind into two: the theoretical ruling, which is the perception of what should be known, and the practical judgment: which is the perception of what should be done. It is noted that the second is bound to the first because it is a realization of a realistic characteristic in the act, which should occur and it is approved, or it should not occur, which is disapproved. Hence, we know that the approved and disapproved

acts are two realistic characteristics that mind perceives^{lvii}.

The perceptions of mind have been divided into independent and independent. Independent perception means what the mind is uniquely aware of it without being mediated by a legitimate statement, which is called (Practical Reason) such as the perception of mind of the good and bad required for their perception by the Sharia^{lviii}, and the independent, in which the perception depends on the statement of the Sharia. Also, a person can distinguish with mind between good actions, such as justice, and bad actions, such as injustice, hence the mind decides away from all factors of emotion, interest and the like^{lix}.

Thus, the Mu'tazila and the Imamists consider rational good and bad, so the Imamists establish that the mind is capable of recognizing good and bad actions, and is independent in urging good deeds, and a rebuking for bad deeds, such as justice and injustice. And if a person divorces himself from everything, he will see in his essence the goodness of justice and the ugliness of injustice, or such as rewarding goodness with goodness or badness (ingratitude), and abiding by or breaching a covenant. So, the mind recognizes independently the goodness of the first and the badness of the latter. Therefore, scholars established that the goodness and badness (approval and disapproval) are rational rather than

legislative. And if the sharia deemed something as good or bad, then the mind had deemed it so ahead of it, because it is an inner messenger, and the ruling (provision) of sharia is conformational rather than foundational to the rule of mind^{lx}. On the other hand, the Asha'rist and Maturidists, they refused rational goodness and badness^{lxi} (approval and disapproval depending on the intellect).

Sheikh Al-Muzaffar establishes that all commands mentioned in the Sharia under independent mentality should be a confirmation of the rational rules, rather than a foundation for it. Moreover, the commitment to rational (dis)approval is consistent with that of sharia, according to the wise community because they are not separate entities^{lxii}.

So the correlation between what is ruled by the mind and what is ruled by the Sharia is clear and evident, because the sharia maker is the master of rationality. If the wise ruled as being rational, the sharia maker would be at their forefront^{lxiii}.

Also, Sayyid M. Muhammad Sadiq al-Sadr states that the correlation rule may mean the external issue, meaning that whenever there is a rational rule it is confirmed by the sharia. It may mean also the theoretical rule meaning that this is what should always be. The difference between them is that if we doubted a

rational judgment whether the sharia is consistent with or not, then we must adhere to the Sharia ruling. Unlike the external issue, if it is a general theoretical issue, then there is no doubt that from an external or actual point of view we do not find a rational judgment that would not be consistent with sharia law, whether it is a command or warning, at the level of obligation or otherwise^{lxiv}.

RULING (GOVERNANCE) OF MIND ON LEGISLATIVE TEXT

Perceptions of Practical Mind (Reason)

Practical reason plays a role in stating and explaining some sharia laws. For instance, zakat (almsgiving) is mentioned in the Quran as follows:

{And perform the prayer, and pay the alms (zakat), and bow with those that bow}^{lxv} and, {Hast thou not regarded those to whom it was said, 'Restrain your hands, and perform the prayer, and pay the alms (zakat')?}^{lxvi}.

The zakat should be given to sober recipients only, because giving zakat to sharia-disobeyers is considered an incentive towards disobedience, hence it is not allowed, otherwise it could a bit of aid and abet to sin. Hence, the intellect here disapproves sharia-disobeyers being recipients of zakat since it is a devotional pillar of Islam that is meant to approach Allah the Almighty^{lxvii}.

Exegetes mentioned that zakat means paying the mandatory alms, and it is derived from growth, development and increment of fortune. It is said, the seed *zaka* (has grown); when a lot of it is germinated by blessing of Allah; hence, giving zakat imports blessing onto fortune and brings about the virtue of generosity to the soul. It is not permissible to give it to the sinner, as that is seen as an encouragement and support for him to commit vices have been forbidden by sharia^{lxviii}.

As for the mandatories of hajj (pilgrimage to Kaaba), which is a consensual issue among Muslims, Allah the Almighty says, **{It is the duty of all men towards God to come to the House a pilgrim, if he is able to make his way there. As for the unbeliever, God is All-sufficient nor needs any being.}**^{lxix}

It is established that if the conditions of the mandatories of Hajj are fulfilled, then it must be performed immediately. This immediateness is no doubt mandated by mind as well; when the sharia duty-bound individual is qualified to all conditions, and the obligation is realized, then obligation satisfaction calls for fulfilment satisfaction. Hence, there is no excuse for delay with the rational possibility of missing it, as indicated by its significance due to the imperative form

indicating immediateness, and its origin is the ruling of the rational^{lxx}.

A number of exegetes state that Hajj is obligatory for wealthy-healthy individuals, provided that they were sharia duty-bound individuals qualified to all conditions of Hajj, and if those do not perform Hajj, they will be sinners, for abandoning an obligation of Islam, if there is no evidence for leaving it, unless they abstain from Hajj for a reason such as disease, emergent necessity, or unjust ruler. If his indolence was other than the aforementioned excuses, and died for some reason, he would have died guilty of delay^{lxxi}.

With regard to enjoining good and forbidding evil, there are several verses that called for this, including, **{And from among you there should be a party who invite to good and enjoin what is right and forbid the wrong, and these it is that shall be successful}**^{lxxii}. The imperativeness of intellectually enjoining what is right and forbidding what is wrong is reported, since right is good, and good is decent in itself. So we find that the mind seeks and enjoins it. On the other hand, wrong is bad, so mind forbids it. The consistency between mind ruling and judgement and sharia ruling is confirmed^{lxxiii}.

A group of jurists hold the view that enjoining good and forbidding evil is

thoughtfulness and whatever is thoughtful will bring the servant closer to Allah and keeps him away from his disobedience. Also, thoughtfulness is a duty by reason, so what is mentioned in the texts in the Quran and Sunnah is only revealing and confirming the rule of reason^{lxxiv}.

It has also been stated that the thoughtfulness that is required by Allah Almighty is enough for exhortation and intimidation for what brings him closer to obedience and keeps him away from sin. But the deeming of reason of enjoining good and forbidding bad does not mount to the level of rewarding and punishment without observing the Sharia, and the most extreme that reason can judge is preponderance. As for reward and punishment, they depend on an explanation of the Quran and Sunnah^{lxxv}.

As for the view of exegetes regarding **{And from among you there should be a party who invite to good and enjoin what is right}**, namely what is approved by the sharia and mind, which is what Allah decreed as mandatory or called for it by the sharia or mind whereas **{and forbid the wrong}**, means what is disapproved by the sharia and mind, which is what Allah forbids or ordered to abstain from by the sharia or mind. And what is right is obedience to Allah according to the Quran and Sunnah, and what is right is

committing sins which is against the Quran and Sunnah^{lxxvi}.

Perceptions of Theoretical Reason

The theoretical reason is defined as the perception of what should be taught, that is, the perception of things that have reality^{lxxvii}. The theoretical reason cannot be independent in comprehending the sharia laws from the outset, without the use of correlation, meaning considering whether that a given act is similar to that of the sharia. The intellectual evidence is the ruling of theoretical reason with correlating between the confirmed law of sharia or mind and another sharia law. An example is its ruling of a correlation between parts and the introductory actions for mandatory actions, its ruling of the impossibility of assigning without clarifying the obligation, its prioritizing what is most important in a competition between two rulings from which the ruling of practicality of the most important is deduced to Allah, and its ruling that the ruling of Allah must be matched with the ruling of the rational. Hence, these correlations and their likes are real and actual matters that the theoretical reason percept by intuition or by acquiring. It is one of the major intellectual issues which, combined with their minorities, reach the Sharia ruling^{lxxviii}.

As for the practical reason, it cannot be independent in perceiving the orders and prohibitions either, because this perception is the function of the theoretical reason, because orders and prohibitions of sharia in particular are real things that can only be realized with the theoretical reason rather than the practical reason. Moreover, the basic function of practical reason is to be independent in realizing orders or prohibitions without looking at its attribution to the Sacred Ruler (Allah) or any other ruler. Also, it means that the practical reason is the real ruler, not a spokesman of another ruler. If this realization occurs to the practical reason, the theoretical reason will follow. Hence, it may or may not rule a correlation between the ruling of practical reason and the ruling of the sharia. No correlation can be ruled except with regard to intellectual (dis)approval, that is, regarding the well-known cases called praiseworthy opinions, to which the views of all rational people are consistent. And then, after the ruling of theoretical reason by correlation, the sharia ruling is uncovered in certain^{lxxix}.

The Ruler (Allah) does not contradict the rational ruling or judgement, because the ruling of mind is just and it is impossible for the sharia law to forbid justice. Hence, if mind orders something, it is impossible for the sharia to prohibit and vice versa^{lxxx}.

So, the theoretical reason rules the impossibility of mandatorizing something without explaining it first, or assigning something that is intolerable, as seen in the verse of fasting, **{O you who believe! fasting is prescribed for you, as it was prescribed for those before you, so that you may guard (against evil)}**^{lxxxii}.

Hence Almighty's saying: **{O you who believe!}**, applies to young and old. This indicates the mandatoriness of fasting according to the noble verse. However, there must be evidence that specifies or restricts this order, to be specific to those who have combined a set of conditions such as mind (soundness). Hence, someone lacking any term would not be charged with any obligation, because reason here disapproves the intolerable assignment, and there is no doubt that an insane person has no power to comply with the obligation, since he has no awareness of what is going on around him. Therefore, addressing them or assigning an obligation to them is disapproved by virtue of reason, let alone punishing them^{lxxxiii}.

M. B. al-Sadr states that independent rational evidence is divided into negative and positive. Negative means: rational evidence that is independent in deducing the denial of a law, such as the case of the impossibility of assigning something intolerable, which is consistent with the above. The wise community condemned

those who entrust others with something intolerable for them, and described it as an assignment of the unbearable. Such as inability, being disabled, or lacking the means or structure, etc^{lxxxiii}.

Some exegetes mentioned that the word **{prescribed}** means mandatory, meaning that fasting is obligatory upon you, and **{those before you}** are the prophets and their nations from Adam (peace be upon him) to this time, and His saying, **{O you who believe!}** is addressing the sharia duty-bound people and an attentiveness to the non-obligation of non-adults, the insane and the unconscious, because faith is the belief and submission is only realized by sane people^{lxxxiv}.

Ability is one of the conditions considered in commissioning or assigning a duty. This means that a person is able to comply with the sharia obligations assigned to her/him, and if s/he was unable to fulfill them, s/he would not be asked to do anything, for Allah says **{God charges no soul save to its capacity}**^{lxxxv} and **{and has laid on you no impediment in your religion}**^{lxxxvi}.

The intellect has disapproved the assignment of the impotent, because it is a matter of assigning the intolerable. Man has a limited ability and energy, meaning that they cannot do something beyond the

scope of ability and will^{lxxxvii}. M. B. al-Sadr mentions under the impossibility of assigning something intolerable, that Allah would never indict a sharia duty-bound individual for doing or not doing out of their choice, because reason disapproves this condemnation, and the right to obedience does not apply to what is out of choice^{lxxxviii}.

As for exegetes, they mentioned that these two verses are evidence that Allah, the Glorified, did not lay hardship on His servants in the matter of religion, nor did He entrust them with something that they could not tolerate, rather he commissioned them within their capacity. Therefore, there is no excuse for neglecting it, nor a savior from his punishment, but rather He made repentance, atonement, and restitutions, a savior off sins. In Islam, there is nothing for which punishment there is no sanctuary^{lxxxix}.

Theoretical reason prioritizes what is most important in a competition between two rulings from which the ruling of practicality of the most important is deduced to Allah, so it is necessary to adopt the fatwa (verdict) of one of the jurists if it is closer to reality. The Almighty says, **{but why should not a party of every section of them go forth, to become learned in religion, and to warn their people when they return to them, that haply they may beware?}**^{xc}.

The noble verse indicating the authority of the fatwa of the jurist calls for its inclusion of the authority of the fatwas of the two jurists together, because it is not distinguished as the authority of the fatwa of one of them rather than the other. So, as it includes the first jurist's fatwa, indicating its authority, it includes the second jurist's fatwa and also indicates its authority. One situation is possible here: either it is decided to include the authority of one fatwa rather than the other, or including both of them, which requires combining the two opposites. However, the wise community chose the experts to settle such dispute, that the sharia duty-bound act according to whichever of the two views he desired, and the tradition is still in effect, taking the closer to reality which is termed "the most cautious of the two views"^{xc}.

It was stated in the exegetes that: **{but why should not a party of every section}** that is, a squad of each group, such as a tribe, people of a town, and a {sect}: a small group and **{to become learned in religion}**; to assume jurisprudence, and shoulder its hardship, and warn their people when they return to them. Hence, *tafaquh* (understanding) the religion: is the acquisition of all Islamic knowledge and rulings. It is more general than the principles and branches, because all these matters have been collected in the concept

of *fiqh* (jurisprudence). The verse is clear evidence that a group of Muslims must always seek, as a collective obligation, to acquire knowledge in various Islamic fields. After completing their educational attainment, they return to their countries or other countries, to teach them various Islamic issues. Muslims in return, should refer to them to obtain the answers they needed to their various religious issues and to approach the new issues in their reality^{xcii}.

CONCLUSION AND RESULTS

- 1- The concept of *foundation* has consistent definitions both linguistically and conventionally. Hence, they serve the same concept similarly; they both indicate basing and building on the origin.
- 2- The concept of *ruling* (authority or governance) has consistent definitions both linguistically and conventionally. Thus, they serve the same concept similarly; they both indicate ruling or judgment and mastery of matters.
- 3- The Holy Qur'an has given a high status to the mind through its blessed verses calling for reason and reflection explicitly or implicitly, and so did the Prophetic Sunnah, as there are several hadiths on the authority of the Prophet and Ahlulbait (Prophetic Household) (PBUH), calling for the use of reason.
- 4- The ruling of theoretical reason has significant role in the perception of some

actions, such as goodness of justice and badness of injustice. Therefore, the practical reason comes to complement the perception of the theoretical ruling according to the rule of correlation; what the mind rules is what the sharia rules.

- 5- The *Jomhoor* (Majority of Sunni Scholars) relied in interpreting some verses of the Holy Quran on the surface meaning, as they did not employ reason to state and clarify these Quranic verses.
- 6- The Imamists' doctrine relied on perceptions of reason in stating and clarifying some of the Holy Quran verses; they considered it a fourth source of Islamic legislation following to the Holy Quran, the Prophet's Sunnah and consensus.

ⁱ Bin Faris (1986). p. 109(1), Al-Razi (1986). p. 18.

ⁱⁱ Quran, Ibrahim, 24.

ⁱⁱⁱ Al-Isfahani (2006) p.79.

^{iv} Al-Jurjani (1983).

^v Bin Faris (1986). p. 91(2)

^{vi} Al-Razi (1986). p. 85, Al-Farahedi (2002). P. 67(3).

^{vii} Al-Isfahani (2006). P. 248.

^{viii} Quran, Nisaa, 58.

^{ix} Quran, Maeda, 95.

^x Al-Jurjani (1983). P.39.

^{xi} Al-Mawdodi (1980). P. (18-19).

^{xii} Jamal (1993). P. 203.

^{xiii} 13- Al-Mawdodi. P. (91).

^{xiv} Sayyid Qutb (1979). P. 631.

^{xv} Imarah. p.251.

^{xvi} Al-Subhani (2009). P. 10-12 (1)

^{xvii} Quran, Al Imran, 90.

^{xviii} Al-Alousi (1995). P. 15(5), Al-Tabrsi (ND). P. 260(1), Al-Kashani (2001). p. 616(1).

^{xix} Quran, Al-Jathyah, 5.

^{xx} Al-Tabari (ND). P. 182(25). Al-Samani (1997). P. 135(5), Al-Tabatabaei (1997). P. 156-157 (18).

- xxi Quran, Fussilat, 53.
- xxii Al-Kashani (1996). P. 365(4), Al-Shirazi (2013). P. 448-449(15).
- xxiii Quran, Al-Baqara, 269
- xxiv Al-Tabari (ND). P. 125-126(3), Al-Samaani (1997). P. 274(1). Al-Nahas (1998). P. 299(1).
- xxv Al-Kuleini (ND).
- xxvi Al-Tabari (ND). P. 125-126(3), Al-Samaani (1997). P. 274(1). Al-Nahas (1998). P. 299(1).
- xxvii Quran, Al-Rum, 9.
- xxviii Maghnyah (1983). P. 531, Al-Shirazi (2013). P.478 (12).
- xxix Al-Tabrsi (1987). P. 208(11), Al-Majlisi (1983). P. 94(1).
- xxx Al-Kuleini (ND). P. 10-16(1)
- xxxi Quran, Fussilat, 21.
- xxxii Al-Aamili (1993). P. 43.
- xxxiii Al-Borojardi (1989). P. 285(13).
- xxxiv Al-Mazandarani (2000). P. 93(1).
- xxxv Al-Kuleini (ND). P. 16(1).
- xxxvi Al-Mazandarani (2000). P. 148(1).
- xxxvii Al-Majlisi (1983). 173-138(1).
- xxxviii Al-Bahrani (1993). P. 131(1).
- xxxix Zeidan (2005). P. 56.
- xl Quran, Al-Baqara, 282.
- xli Al-Hafeed (1995). P. 381 (2).
- xlii Quran Al-Maeda, 6.
- xliii Al-Hafeed (1995). P. 63 (1).
- xliv Quran, Al-Baqara, 196.
- xlvi Quran, Al-Maeda, 89.
- xlvii Al-Thaalabi (2002). P. 104 (4).
- xlviii Quran, Al-Baqara, 184.
- xlix Al-Alousi (1995). P. 58(2).
- ¹ Al-Subhani (1998). P.227.
- ² Al-Naraq (ND). P. 117(1).
- li Abdah (1992). P. 24(1).
- liii Al-Khoei (ND). P. 151(2).
- liv Maghnyah (2006). P. 60 (1).
- lv Al-Muzaffar (2017). P. 129(3).
- lvi Al-Reshahri (2000). P. 23.
- lvii Al-Sadr (1987). P. 424(1).
- lviii Al-Hakeem (2001). P. 267.
- lix Al-Muzaffar (2017). P. 129(3).
- lx Al-Subhani (2001). P. 381, Al-Subhani (1999). P. 26, Al-Subhani (2007) 10-14.
- lxi Al-Fadhli (1993). P.146.
- lxii Al-Muzaffar (2017). P. 198(1).
- lxiii Al-Shahroudi (2005). 85(4).
- lxiv Al-Sadr (2007). P. 412(2).
- lxv Quran, Al-Baqara, 43.
- lxvi Quran, Al-Nisaa, 77
- lxvii Al-Irawani (2016). P. 228-229 (4).
- lxviii Al-Tabari (ND). P. 366-369 (1), Abdulsalam (ND). P. 122(1), Al-Beidhawi (1998). P. 77(1), Al-Tabrsi (1998). P. 87(5), Al-Kashani (2001). p. 536(1).
- lxix Quran, Al-Imran, 97.
- lxx Al-Irawani (2016). P. 11 (5).
- lxxi Al-Ayashi (ND). P. 190(1), Al-Mufeed (2002). P. 93, Al-Tousi (ND). P. 355(2).
- lxxii Quran, Al-Imran, 104.
- lxxiii Al-Garaawi & Shabeeb (2010). P. 35.
- lxxiv Al-Najaf (2011). P. 94(4).
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- lxxvi Al-Nasfi (1998). P. 170(1), Al-Tabrsi (1998). P. 87(5), Al-Kashani (2001). p. 536(1).
- lxxvii Al-Hakeem (2001). P. 269.
- lxxviii Al-Muzaffar (2017). P. 135(3).
- lxxix Al-Muzaffar (2017). P. 136-137(3).
- lxxx Al-Sadr (2007). P. 412 (2).
- lxxxi Quran, Al-Baqara, 183.
- lxxxii Al-Irawani (2016). P. 16 (1).
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- lxxxv Quran, Al-Baqara, 286.
- lxxxvi Quran, Al-Hajj, 78
- lxxxvii Al-Irawani (2016). P. 17 (1).
- lxxxviii Al-Sadr (2007). P. 283 (1).
- lxxxix Al-Heweyzi (1997). P. 523 (3), Al-Tabrsi (1998). P. 173 (7).
- ^{xc} Quran, Al-Tawba, 122
- ^{xc} Al-Irawani (2016). P. 160-161 (1).
- ^{xcii} Al-Razi (ND). P. 1913 (6), Al-Kashani (1996). P. 389 (2), Al-Shirazi (2013). P. 269-270 (15).

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