

The Role of Intellect in the Perspective of Imāmī Jurists

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ABSTRACT

In the eyes of Imāmī jurists, the Qur'an, Sunna, *ijmā'* (consensus), and 'aql (intellect) are the four sources used to derive religious rulings. Intellect is a religious tool that all Imāmī scholars, except the scholars of the Akhbārī school of thought, are at one over its validity for deriving religious rulings.

The issue of intellect, its realm, and the level of its validity has been one of the preoccupations of Shī'ī scholars throughout history. They examine intellect from four important angles:

1. What is the definition of the rule of intellect?
2. Does reason have the capacity to discover religious rulings? In other words, when the intellect deduces a ruling in a definite form, can it be said that the *sharī'a* also has such a view?
3. If the answer is yes, can it compel a *mujtahid* to issue a *fatwā* accordingly?
4. What are the reasons for the Akhbārī opposition to the role of intellect in revealing religious rulings?

This article aims to address these four angles in detail.

KEYWORDS: *sharī'a*, induction (*istiqrā'*), analogy (*tamthīl*), logical deduction (*qiyās-i mantiqī*), independent dictates of reason (*al-mustaqilla al-'aqliyya*), non-independent dictates of reason (*ghayr al-mustaqilla al-'aqliyya*) understanding of benefits and harms (*maṣāliḥ wa mafāsīd*).

Introduction

Intellect is one of God’s blessings upon human beings, which can lead them to the position of the best of creations. Intellect has distinguished humans from other creatures of this world, meaning that their ultimate felicity and ruin in this world and the Hereafter, depends on the prosperity of their intellect. Throughout history, the role of the intellect has been one of the preoccupations of scholars. They have presented various and contradictory perspectives on the function of intellect to the extent that some of them have gone to “excess” (*ifrāt*) or “neglect” (*tafrīt*) due to their lack of proper cognition of the real position of intellect.

This article, in its own capacity, attempts to analyse the role of intellect in the perspective of Imāmī jurists. First, it will look at the definition of intellect. Second, it will address the authority of the rule of intellect from two perspectives: a) the judgement of intellect as an example of certitude (*qaṭʿ*), and b) the validity of the rule of intellect as the discoverer of the law of *sharīʿa*. The second perspective falls into induction (*istiqrāʿ*), analogy (*tamthīl*), and logical deduction (*qiyās-i mantiqī*). Third, it will address the three types of logical deduction: a) independent dictates of reason (*al-mustaqilla al-ʿaqliyya*); b) non-independent dictates of reason (*ghayr al-mustaqilla al-ʿaqliyya*); c) understanding of benefits (*maṣāliḥ*) and harms (*mafasid*). Finally, it will examine four arguments that the Akhbārī school presents against the role of intellect in jurisprudence.

The history of intellect amongst Muslim jurists

It is generally acknowledged that intellect is the fourth source of inference following the Qur’an, Sunna, and consensus (*ijmāʿ*).¹ The views of Islamic jurists are not unanimous over the role of intellect in the realm of jurisprudence. In the schools of the Ahl al-Sunna, there

¹ Miqdād b. ʿAbdullāh Fāḍil Miqdād, *al-Tanqīḥ al-rāʾiʿ li mukhtaṣar al-sharāʾiʿ* (Maktabat al-Marʿashī al-Najafī: 1983), 1:5.

are two distinct approaches to deriving religious rules: followers of *ḥadīth* (*aṣḥāb al-ḥadīth*) and companions of opinion (*aṣḥāb al-ra'y*).² The exclusive basis of the first group in inference is the transmitted sciences, especially *ḥadīth*, *sīra* of the *al-salaf al-ṣāliḥ* (the practice of the early pious predecessors), and the views of the Companions (*ṣaḥāba*). On contrast, the second group contends that there are very few authentic *ḥadīths* that are able to respond to all jurisprudential questions. Therefore, we must cling to other sources besides the Qur'an and *ḥadīth*.

The early Shī'ī jurists (*mutaqaddimūn*) have paid less attention to the role of intellect, and those who have addressed this issue have not clearly explained the place of intellect in jurisprudence. However, among the later jurists (*muta'akkhirūn*), this issue has been discussed to a greater extent.³

The definition of intellect

Lexicographers have mentioned many meanings for intellect. The term 'aql in Arabic means refrain and clinging (*istimsāk*). Among the derivatives of this word, we can refer to the word 'iqāl. 'Iqāl denotes a rope tied to a camel's leg so that it does not move. It seems that since the power of wisdom prevents a person from doing abnormal things, this word is applied to it.⁴ However, conventionally, as Ṣadr al-Dīn Muḥammad Shīrāzī, commonly known as Mullā Ṣadrā (1572-1641) maintains, 'aql is a term shared by six meanings (*mushtarak lafẓī*). Among them, two terms are more prominent in the field of Islamic philosophy and theology:

² 'Abdullāh b. Muslim b. Qutayba, *Ta'wīl mukhtalaf al-ḥadīth* (Dār al-jayl: 1990), 51 and 73.

³ Nāṣir Makārim, *Dā'irat al-ma'ārif-i fiqh-i muqāran* (Madrasat Imām 'Alī: 2006), 1:203-4.

⁴ Ḥusayn al-Rāghib al-Iṣfahānī, *Mufradāt fi alfāẓ al-Qur'ān* (Dār al-Qalam/al-Shamitiyya: 1991), 577-8; Fakhr al-Dīn Ṭurayḥī, *Majma' al-Baḥrayn* (Murtaḍawī: 1997), 5:425.

- a. The first term considers intellect as a being that is intrinsic and in the realm of act (*fi'l*) immaterial. It independently exists without belonging to the soul and body. Based on this, there are many '*aqls*, in the world, and among them there is a causal (*sababī*) relation, which are mediators of God's grace.⁵
- b. In the second term, intellect is one of the tools of the human soul, which is united with it and is actually one of its powers. Intellect is ahead of tools such as imagination (*khīyāl*), illusion (*wahm*), and senses (*ḥiss*), which are capable of understanding the general concepts (*mafāhīm-i kullī*). Intellect can deduce theoretical issues from self-evident premises.⁶ In theological parlance, it denotes "the faculty with which a man can distinguish truth from falsity."⁷ Given this definition, we can see that '*aql* is capable of preventing errors.

Intellect or rational apprehension (*al-idrāk al-‘aqlī*) in the second term falls into two classifications, theoretical (*naẓarī*) and practical (*‘amalī*).

Theoretical and practical

The former refers to the apprehensions which are valuable to know, such as the arguments for proving God's existence, His attributes, His acts, etc. They somehow are able to affect man's practical life. Nevertheless, they are not such that we should act upon them; they do not fall under the scope of action.

The latter is an awareness which is in the realm of action, and we should perform it. "God must be worshipped", "lying must be avoided",

⁵ Ḥasan b. Yūsuf ‘Allāma al-Ḥillī, *Kashf al-murād fī sharḥ tajrīd al-‘itiqād* (al-Nashr al-Islāmī: 1992), 176-181; ‘Abd al-Razzāq Fayyāḍ Lāhījī, *Gawhar-i murād* (Sayih: 2004), 301-3, 293-4.

⁶ Al-Ḥillī, *Kashf al-murād*, 191-2; al-Ḥillī, *Nihāyat al-marām* (Mu’assasat Imām Ṣādiq: 1998), 225 and 229.

⁷ Muhammad Husayn al-Tabataba‘i, *al-Mizān fī tafsīr al-Qur’ān* (Raja: 1983), 1:405.

and “the devil must not be obeyed” are examples of practical ‘aql.⁸

Following a brief explanation of intellect, the following section addresses its realm and authority in jurisprudence.

The realm of intellect

The authority of the rule of intellect should be assessed from two standpoints. First, the authority of the judgement of intellect since it is one of the examples of certitude (*qatʿ*). Second, the validity of the rule of intellect is since it is the discoverer of the law of *shariʿa*. These shall be discussed in turn.

First: the authority of intellect as an example of certainty

There is no doubt that when a *mujtahid* reaches certainty, he must act upon it since it, in of itself, leads him towards truth. In the eyes of Uṣūlīs, if he obtains certitude, he must act upon it since reason independently dictates so. It implies that he will be rewarded if his certitude is correct and excused if it is not.

For clarification, when a jurist reaches a degree of certainty about an issue, he logically cannot act contrary to his assurance. Certainty reveals the truth, and, at least in the eyes of the person who gains certainty, this certainty reflects the true reality; that is, what he has arrived at is the true reality. This, in turn, implies that opposing the certitude is like opposing the reality, which is unjustifiable.

Based on the above, certitude has three features:

1. Discovery (*kāshifiyya*): It reveals the truth, even if he is the only one who has reached certainty about it.
2. Accountability (*munajjiziyya*): When the certainty of a jurist is in accordance with the actual ruling, it makes the real ruling definitive. In this case, if he obeys the ruling, he will be entitled to a reward. Likewise, he is worthy of punishment for contravening the ruling.

⁸ Al-Ḥillī, *Nihāyat al-marām*, 224-5.

3. Exculpability (*mu'adhdhiriyya*): When the certainty of the jurist is not in accordance with the real ruling, in this case, if he realises after obeying that his certainty was wrong, he will be excused. It means that he will not be entitled to punishment for contravening the actual ruling.⁹

As mentioned above, the authority of the rule of intellect should be assessed from two standpoints. First, the authority of the judgement of 'aql since it is one of the examples of certitude (*qaṭ'*). Second, the validity of the rule of intellect due to the fact that it is the discoverer of the rule of *sharī'a*. Now we discuss the second angle, which is the main concern of this article.

Second: the validity of intellect as a discoverer of the rules of sharī'a

As stated before, intellect is generally regarded as the fourth source of inference after the Qur'an, the Sunna, and consensus (*ijmā'*). There are three types of rational arguments: induction (*istiqrā'*), analogy (*tamthīl*), and logical deduction (*qīyās*). To clarify whether Imāmī Uṣūlis approve all three types or not, we will examine them in turn.

1. Analogy

The transition from one thing to another, owing to their similarity, is called analogy.¹⁰ Let me make it clear with two examples. Suppose you have read a book by a famous author which you found very interesting. Then you see a new book from the same author and, compared to the previous book, you may say: "This book will definitely be as interesting as the previous book." In this case, you deduce the attraction of the second book from the first book since it emanates from the same person.

Another example of analogy is that we know that wine is forbidden

⁹ Muḥammad Kāzīm al-Khurāsānī, *Kifāyat al-uṣūl* (Āl-al-bayt: 1988), 258-9.

¹⁰ Naṣīr al-Dīn al-Ṭūsī, *al-Jawhar al-naḍīd* (Bīdār: 1984), 189. It is worth noting that the term analogy in the science of *uṣūl* is known as *qīyās*.

in Islam. We also know that wine is intoxicating. But let us assume that we are not aware of the verdict of beer. Here, due to the similarity between wine and beer (i.e. intoxication), we may say: “Beer will also be forbidden.”

Therefore, in analogy, the criterion is the similarity between two partial things: 1. Similarity of something which we know its ruling by *naṣṣ* (wine, for instance), and 2. We do not know its ruling (since there is no *naṣṣ* for it, for instance, beer).

There are two types of analogy:

- a. *Manṣūṣ al-‘illa* (analogical inference premised on authentic proof): The *ḥadīth* clearly specifies the reason (‘illa) of impermissibility. For instance, the evidence says that wine is harm due to intoxication, in such if it turns to vinegar, it will no longer be impermissible.

Another example: a *ḥadīth* states:

مَاءُ الْبَيْرِ وَاسِعٌ، لَا يُفْسِدُهُ شَيْءٌ إِلَّا أَنْ يَتَغَيَّرَ رِيحُهُ أَوْ طَعْمُهُ، فَيُنزَحُ حَتَّى يَذْهَبَ
الرِّيحُ أَوْ الطَّعْمُ، لِأَنَّ لَهُ مَادَّةً.

The water of the well is wide and nothing spoils it unless it changes its smell or taste. [If it becomes impure] it should be drained until the smell or taste is gone, because it has a source.¹¹

The *ḥadīth* clearly specifies the reason for the purification of water. It means that if the water of the well has a source, nothing can make it impure unless the colour or the taste of the water is changed by the impurity. We can take it as a reason and hold that if any water (like the river) has a source, the impurity cannot make it impure since it connects to a source.¹²

- b. *Mustanbiṭ al-‘illa* (analogical inference premised on conjectural

¹¹ Muḥammad al-Ḥurr al-‘Āmilī, *Wasā’il al-Shī’a* (Āl al-bayt: 1988), 1:141.

¹² See also Ja‘far b. Ḥasan al-Muḥaqqiq al-Ḥillī, *Ma‘ārij al-uṣūl* (Āl al-bayt: 1982), 185-6.

causal factors): The proof does not mention the reason for impermissibility.

For instance, it says that wine is impermissible.

Imāmī jurists accept the analogy of *manṣūṣ al-‘illa* and issue *fatwās* accordingly.¹³ In reality, it is somehow a way of following the Sunna. However, they do not accept *mustanbiṭ al-‘illa*. They believe that some narrations reject this type of analogy, for instance, the *ḥadīth*:

قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ): مَا تَقُولُ فِي رَجُلٍ قَطَعَ إِصْبَعًا مِنْ أَصَابِعِ
امْرَأَةٍ، كَمْ فِيهَا؟ قَالَ: عَشْرَةٌ مِنَ الْإِبِلِ. قُلْتُ: قَطَعَ اثْنَتَيْنِ؟ قَالَ: عِشْرُونَ. قُلْتُ:
قَطَعَ ثَلَاثًا؟ قَالَ: ثَلَاثُونَ. قُلْتُ: قَطَعَ أَرْبَعًا؟ قَالَ: عِشْرُونَ. قُلْتُ: سُبْحَانَ اللَّهِ!
يَقْطَعُ ثَلَاثًا فَيَكُونُ عَلَيْهِ ثَلَاثُونَ، وَيَقْطَعُ أَرْبَعًا فَيَكُونُ عَلَيْهِ عِشْرُونَ!

قَالَ (عَلَيْهِ السَّلَامُ): مَهْلًا يَا أَبَانَ، هَذَا حُكْمُ رَسُولِ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ
وَسَلَّمَ). يَا أَبَانَ، إِنَّكَ أَخَذْتَنِي بِالْقِيَاسِ، وَالسُّنَّةُ إِذَا قِيسَتْ مُحِقَّ الدِّينِ.

I asked Abū ‘Abdullāh (peace be upon him): “What do you say about a man who cut off one of a woman’s fingers?” He said: “Ten camels.” I said: “If he has cut two?” He said: “Twenty camels.” I said: “If he has cut three?” He said: “Thirty camels.” I said: “If he has cut four?” Imam said: “Twenty.” I said: “Glory be to God! For three fingers thirty camels, and for four fingers twenty camels?” He (peace be upon him) said: “Wait, Abān! This is the ruling of the Messenger of God (s). O Abān, you followed analogy. If the Sunna is compared by analogy, nothing remains of the religion.”¹⁴

2. Induction (*Istiqrā’*)

¹³ Ja‘far Sobhani, *al-Inṣāf fi masā’il dām fi-hā al-khilāf* (Mu’assasat al-Imām al-Ṣādiq: 2019), 2:439.

¹⁴ Al-‘Āmilī, *Wasā’il al-Shī’a*, 29:352.

Induction is another of the tools of rational argument. In its definition, it has been said: “When we examine the various details, we can derive a general rule from it.”¹⁵ To illustrate, suppose the census officers noticed after the census that all the people referred to are literate. Then they announce that all the people of this city are literate. A significant question to be addressed in the next section is the value of induction.

There are two types of induction: a) incomplete and b) complete induction.

Incomplete induction (*Istiqrāʾ-i nāqis*)

In induction, like analogy, the criterion is similarity between two things: 1. The similarity of something which is in the realm of the senses (such as the census of people referred to); and 2. Something which is outside the realm of the senses (such as people who have not been referred to). Such induction, therefore, is a non-definitive reason; since, in this example, there may be many illiterate people who have not been referred to. Imperfect induction cannot be regarded as proof since it only provides probable knowledge. It is clear that there is no evidence that substantiates its authority.

Complete induction (*Istiqrāʾ-i tāmm*)

Say we examine all the people of this city without any exception and we see that everyone has an educational degree; this is a definitive reason and we can say conclusively that all the people of this city are literate.

Although complete induction leads to certainty, however, such induction is practically impossible. Moreover, it cannot be a source of inference for a jurist since complete induction consists of particular pieces of information that we cast in the form of a universal proposition, without us attaining knowledge about something that was previously unknown. To put it another way, we arrive at a conclusion via induction without clinging to any logical argument. So, complete induction

¹⁵ Al-Tūsī, *al-Jawhar al-naḍīd*, 188.

cannot be a source of inference.

In light of what was mentioned above, the *mustanbiḥ al-‘illa* analogy and both types of induction cannot be a source of inference. Having invalidated analogy and induction as the sources of inference, the next part discusses the third one, i.e. logical deduction (*qiyās-i mantiqī*) and its scope in the field of jurisprudence.

3. Logical deduction

It seems that Mīrzā Abū l-Qāsim al-Qummī (1737-1815) defines intellectual evidence (*dalīl-i ‘aqlī*) for the first time. He says that what is meant by intellectual evidence is any intellectual ruling that can be used to reach a religious ruling. In other words, intellectual ruling leads to religious rulings.¹⁶ In the eyes of Uṣūlīs, logical deduction is divided into a) independent dictates of reason (*al-mustaqilla al-‘aqliyya*); b) non-independent dictates of reason (*ghayr al-mustaqilla al-‘aqliyya*);¹⁷ c) understanding of benefits (*maṣāliḥ*) and harms (*mafasid*). They will be addressed in turn.

Independent dictates of reason

In the first type of logical deduction, both minor and major premises are derived from intellect. Independent dictates of reason means rulings that the intellect has comprehended without the assistance of the *sharī‘a*, and the minor and major premises are both rational, such as the ruling on the “goodness of justice”. It can be illustrated with the following example:

Minor premise: Justice is intellectually good (*ḥasan*).

Major premise: Whatever is rationally necessary, *sharī‘a* makes it obligatory.

Conclusion: Justice is a religious obligation.

¹⁶ Mīrzā Abū l-Qāsim al-Qummī, *Qawānīn al-uṣūl* (Iḥyā’ al-kutub al-Islāmiyya: 2008), 3:7.

¹⁷ Ibid, 7-8.

To explain this, we should note that sometimes intellect by itself takes into account the nature of an act and issues a ruling without considering the goodness or evil that may be involved in it. For example, from the point of view of the intellect, the nature of justice (on its own) is pleasing, whether it is for God or for man, whether in this world or in the Hereafter, whether it is for the benefit of man or apparently to the detriment of man. Thus, the human intellect distinguishes between good and evil actions, understanding the former to signify the perfection of the agent and the latter the imperfection of the doer.¹⁸

In this case, the scholars of *uṣūl* believe there is harmony and correspondence between such a general intellectual ruling and the ruling of the *sharī'a*. They argue in this way that the Divine Lawmaker is wise and never rules against common sense; therefore, it is known that whatever the intellect rules, the *sharī'a* also rules accordingly. In this regard, it is important to clarify that “the intellect can never issue an “order” with regards to God, saying that God “must” be just; rather, the task of the intellect is to disclose the true reality of God’s actions.”¹⁹

There is another, contrasting, viewpoint, which maintains that the human intellect is unable to distinguish between good and evil actions, even in a general form.²⁰ They hold that the discriminating “between good and evil can only be made on the basis of divine revelation”: that what God orders to do is good, and what He forbids is evil. Based on this theory, if God commands to cast the innocent into hell or take the sinner to heaven, it will be good and just.²¹

However, the Imāmī scholars of *uṣūl* are at one over the independent

¹⁸ Al-Ḥillī, *Kashf al-murād*, 59. See also Muḥammad Ḥusayn al-Ḥā'irī al-Iṣfahānī, *al-Fuṣūl al-gharawīyya fī l-uṣūl al-fiqhiyya* (Dār al-iḥyā' al-'ilm al-Islāmī: 1983), 316; Muḥammad Taqī al-Iṣfahānī, *Hidayat al-mustarshidīn* (Āl al-bayt: n.d.), 441; Murtaḍā al-Anṣārī, *Maṭāriḥ al-anzār* (Āl al-bayt: 1983), 229.

¹⁹ Ja'far Sobhani, *Doctrine of Shi'i Islam: A Compendium of Imami Beliefs and Practices*, trans. Reza Shah-Kazami (I.B.Tauris Publishers: 2001), 49.

²⁰ Muḥammad al-Ghazālī, *Al-Mustaṣfā* (Dār al-Kutub al-'Ilmiyya: 1996), 8.

²¹ Sobhani, *Doctrine*, 50.

dictates of reason in this sense. One situation where Imāmī jurists utilise the dictates of the intellect for inference is with respect to the principle of non-liability (*al-barā'a*). For instance, if a jurist doubts the prohibition of an act due to a lack of evidence from the Qur'an or *ḥadīth*, he can cling to the principle of non-liability and issue a *fatwā* that it is permissible.²²

It should be said that a person can only be questioned for disobeying the command of his master if he had already been warned about it. In other words, a manager can reprimand his employees for coming late if he has warned them about this before. Now, suppose that a *mujtahid* doubts about the obligation of an act, and having investigated comprehensively does not find any proof of the obligation from the Qur'an or narrations; in the eyes of Uṣūlīs, he can issue a *fatwā* on the non-obligation of the act. It is clear that if the master wants to rebuke the jurist for such a *fatwā*, it will be a “punishment without a declaration” (‘iqāb bi-lā bayān). Clearly, this is an example of injustice from the master and it is not compatible with divine wisdom. This can be made clear with a logical deduction:

Minor premise: The punishment of a person based on a *fatwā* that has been thoroughly researched but has not reached a conclusion is an example of “punishment without a declaration”.

Major premise: The punishment without a declaration is not fair.

Conclusion: God does not punish anyone without declaration.

The non-independent dictates of intellect

The non-independent dictates of intellect are the rulings that intellect understands according to the ruling of the *sharī'a*. In other words, the minor premise is derived from *sharī'a* and the major one from intellect.

To put in another way, the non-independent dictates of intellect refer to cases in which the intellect alone cannot discover the religious ruling; instead, the intellect can discover another religious practice

²² Al-Khurāsānī, *Kifāyat al-uṣūl*, 343-4; Abū l-Qāsim al-Khū'ī, *Miṣbāḥ al-uṣūl* (Dawari: 1995), 3:34.

with the assistance of a religious ruling. For example, *sharī'a* makes a particular act obligatory, the performance of which naturally depends on the fulfilment of some preliminaries. Accordingly, although the *sharī'a* has not made a statement regarding the obligation of those preliminaries, since it is not possible to perform that religious act without preliminaries, intellect discovers, from the *sharī'a* perspective, the obligation of preliminaries.

For instance, the Qur'an has made Ḥajj obligatory for affordable individuals, but it is silent about the obligation of its preliminaries, such as applying for a ticket, visa, etc. Here the intellect maintains that there is a logical connection between performing Ḥajj and its preliminaries. Therefore, the obligation of Ḥajj also requires the obligation of preliminaries (such as obtaining a visa). We can make it clear with such logical deduction:

Minor premise: Ḥajj is obligatory according to *sharī'a*.

Major premise: The preliminary act(s) of an obligatory act is obligatory.

Conclusion: The preliminaries of Ḥajj are obligatory.

As mentioned earlier, in the eyes of Uṣūlīs, logical deduction is divided into a) independent dictates of reason; b) non-independent dictates of reason; c) understanding of benefits (*maṣāliḥ*) and harms (*mafāsīd*). Having discussed the first and second, we address the third type.

Understanding of benefits and harms

From the Imāmī perspective, the religious practices of Islam arise out of a series of existential properties, i.e. benefits and harms, inherent in the nature of things.²³ It means that God commands an act due its benefit, and likewise, He prohibits an act due to a harm. This is due to the fact that "God is the absolute Truth, thus His acts are all true, hence they are

²³Sobhani, *Doctrine*, 90.

devoid of any kind of falsehood or vanity.”²⁴

The Qur’anic verses reveal that all His divine commands stem from benefits just as His prohibitions emanate from harm. For instance, God prohibited wine and gambling since it is the source of enmity and it prevents His remembrance:

﴿إِنَّمَا يُرِيدُ الشَّيْطَانُ أَنْ يُوقَعَ بَيْنَكُمْ الْعَدَاوَةَ وَالْبَغْضَاءَ فِي الْخَمْرِ وَالْمَيْسِرِ وَيَصُدَّكُمْ عَنْ ذِكْرِ اللَّهِ وَعَنِ الصَّلَاةِ فَهَلْ أَنْتُمْ مُنْتَهُونَ﴾

Indeed Satan seeks to cast enmity and hatred among you through wine and gambling, and to hinder you from the remembrance of Allah and from prayer. Will you, then, relinquish?²⁵

Moreover, the Qur’an, in the philosophy of the obligation of prayer, maintains that it has the capacity to restrain the individual from wrongful deeds. It says:

﴿وَأَقِمِ الصَّلَاةَ إِنَّ الصَّلَاةَ تَنْهَى عَنِ الْفَحْشَاءِ وَالْمُنْكَرِ﴾

Maintain the prayer. Indeed the prayer restrains from indecent and wrongful conduct.²⁶

Moreover, Imam al-Riḍā (a) refers to the same fact in the philosophy of permissibility and impermissibility. He states that if God has permitted certain foods and drinks, it was for expediency and benefit. He adds that God has never forbidden anything unless there is harm and corruption in it.²⁷

In light of what has been mentioned, it can be concluded that God is the absolute Truth; thus, all His acts are true and devoid of any kind

²⁴ Ibid, 120.

²⁵ *The Qur’an*, trans. Qara’i (ICAS: 2005), 5:91.

²⁶ Ibid, 29:45.

²⁷ Sobhani, *Al-Wasīṭ fi uṣūl al-fiqh* (Mu’assasat al-Imām al-Ṣādiq: 2018), 2:26; Ḥusayn al-Nūrī, *Mustadrak al-Wasā’il wa mustanbaṭ al-masā’il* (Āl al-bayt: 1987), 16:26.

of falsehood or vanity. It implies that all His commands, i.e. obligations and prohibitions, stem from His divine wisdom (*maṣlaḥa* and *mafsada*).

Now, if we accept that *sharī'a* rulings are based on benefits and harm, the essential question that preoccupies the minds of jurists is to suppose that a *mujtahid* becomes aware of the existence of benefit or harm in a matter after thorough research. Can he issue a *fatwā* according to that? In other words, the benefit or harm in question is one of the issues about which there is no *sharī'a* statement, but the jurist realises with his intellect that there is a benefit or harm in that act. In this case, is it possible to give a *fatwā* accordingly? Is it permissible for a jurist to take into account every benefit about which the *sharī'a* is silent regarding its validity or invalidity, and issue a *fatwā* based on it?

In response, it should be pointed out that the benefit or harm concluded by the jurist may be one of two ways:

1. The jurist's awareness of the benefit or harm of an act has reached a point where all wise individuals have a unanimous opinion about it. For example, suppose that all medical practitioners, believers or non-believers, prescribe a vaccine to prevent a life-threatening virus. In this case, the jurist, with the support of the consensus of the specialists, can reveal the religious ruling. As a result, he could issue a *fatwā* stating that vaccination is obligatory.²⁸

2. Sometimes, the jurist's cognition of the benefit or harm of an act is not in such a way that all experts are at one over it. Rather, based on a series of evaluations, he thinks this action is beneficial or harmful. In other words, benefit or harm is not as obvious as the previous type, that all intellectuals will comprehend it in the same way; rather, each jurist may reach a different conclusion based on their insight. The essential question is whether a jurist can issue a *fatwā* based on his understanding of benefit or harm. Can he rely on his cognition and discover the divine decree based on that?

Imāmī jurists believe that, in this case, the jurist cannot issue a ruling

²⁸ Sobhani, *al-Mabsūt fī uṣūl al-fiqh* (n.p.: 2012), 3:95.

based on his personal inference. They ask: how can it be known the benefit that the jurist reached is the complete cause (‘illat-i tāmm) of God’s decree; perhaps there is an obstacle that the jurist is not aware of? Ayatollah Muḥammad Ḥusayn Gharawī al-Iṣfahānī, Known as al-Kumpānī (1875-1942), refers to this fact and states that “the criteria of religious practices are not subject to a rule that a jurist can achieve.” He adds: “Wisdom can never be aware of such criteria. Therefore, a jurist cannot infer the religious ruling with his limited understanding.”²⁹

To clarify al-Iṣfahānī’s statement, it should be noted that religious rulings differ considerably in terms of benefit and harm. It means that some obligations are so important that a person is permitted to commit a sin in order to comply with them. For example, to save a person caught in a fire, you are permitted to break down the door of a house without the owner’s permission and save the burning person. In this example, although it is forbidden to break the door or window without the permission of the owner of the house, because it is important and obligatory to save a human’s life, this sin can be ignored. On the other hand, there are some sins that a person cannot commit under any condition. For example, killing an innocent individual is one of the most severe prohibitions that absolutely must be avoided, even if it leads to missing some obligations.³⁰ It is possible that a jurist considers a benefit of an act so important that he rules the act as obligatory, whereas another jurist does not view the same benefit as important and therefore does not issue the same ruling.

In sum, although the religious ruling is not separable from benefit and harm, intellect cannot always perceive them as they are. A *mujtahid*, therefore, cannot rely on his personal judgement of harms and benefits and reveal religious practices.

Following what has already been mentioned, since there is no exact measure of benefit or harm in an act, the jurist’s awareness of benefits

²⁹ Muḥammad Ḥusayn al-Iṣfahānī, *Nihāyat al-dirāya fi sharḥ al-Kifāya* (Āl al-bayt: 2008), 3:349.

³⁰ Sobhani, *al-Wasīṭ*, 2:27.

cannot be used as the basis for inferring religious rulings. Consequently, from the Imāmī perspective, a jurist cannot issue a *fatwā* accordingly.

In sum, the logical deduction is divided, in the eyes of Uṣūlīs, into: 1. Independent dictates of reason. 2. Non-independent dictates of reason. 3. Understanding of benefits and harms. The third one also falls into two types: a) all wise individuals are at one over the benefit or harm of a particular act; b) such a unity does not exist.

Concerning what has been discussed, the conclusion can be drawn that Imāmī Uṣūlīs believe that intellect can discover religious rulings in the independent and non-independent dictates of intellect. Moreover, a *mujtahid*, in the first type of “understanding of the benefits or harms” can also discover religious rulings with the help of intellect. In spite of this, Uṣūlīs maintain that in the second type, intellect cannot be the source of revealing religious rulings.

Contrary to the Uṣūlīs, a group of Akhbārīs believe that intellect independently cannot be the discoverer of religious rulings. They denied the authority of intellect in the realm of the derivation of religious rulings and argued that according to traditions, religious practices should be derived from the infallible and not from the intellect. Akhbārīs are the representatives of this thought stream.³¹ Their views will be analysed in turn.

The view of Akhbārīs

Akhbārī scholars, in order to reject the incapability of intellect in the realm of revealing religious practices, cling to some narrations, some of which will be referred to. This section also will try to see whether these narrations can be an obstacle for the perspective of Uṣūlīs. Muḥammad Amīn al-Astarābādī (d. 1626), in *al-Fawā'id al-madaniyya*, presents four arguments, and we will discuss them in turn.

1. The silence of the lawmaker about a ruling

³¹ See al-Ḥā'irī al-Iṣfahānī, *Al-Fuṣūl*, 316; Sayyid Yūsuf al-Baḥrānī, *al-Ḥadā'iq al-nāḍira* (Āl al-bayt: n.d.), 1:126-135.

Al-Astarābādī asserts that Uṣūlīs discover God's decree via the assistance of intellect. This argument depends on the fact that God already had a ruling that had not reached the *mujtahid*, and now the *mujtahid* has discovered it via the intellect. Nonetheless, God may have no ruling on a particular matter at all. Now, if a *mujtahid* finds its ruling based on his intellect, how can he attribute it to God? In other words, how can a *mujtahid* contend that my intellect reveals that God's ruling is this, while God has not given a ruling on this matter at all, and has remained silent?³²

In reply, al-Astarābādī's statement is in conflict with some narrations. The Prophet, in his last Ḥajj trip, stated that he conveyed what was necessary to the guidance of man and to lead them to heaven. He says:

قَالَ: حَظَبَ رَسُولُ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي حَجَّةِ الْوَدَاعِ، فَقَالَ: يَا أَيُّهَا النَّاسُ،
وَاللَّهِ، مَا مِنْ شَيْءٍ يُقَرِّبُكُمْ مِنَ الْجَنَّةِ وَيُبَاعِدُكُمْ مِنَ النَّارِ إِلَّا وَقَدْ أَمَرْتُكُمْ بِهِ. وَمَا
مِنْ شَيْءٍ يُقَرِّبُكُمْ مِنَ النَّارِ وَيُبَاعِدُكُمْ مِنَ الْجَنَّةِ إِلَّا وَقَدْ نَهَيْتُمْكُمْ عَنْهُ.

O people, I have informed you all of what brings you close to paradise and all of what keeps you away from the fire, and have ordered you towards it. Moreover, I have prohibited you from everything that makes you close to hell and far from paradise.³³

This *ḥadīth* shows that God has rulings for all matters. Thus, if intellect discovers a ruling, it indicates that the *sharī'a* already had a ruling that the *mujtahid* was unaware of. It is clear that if the *mujtahid* had known it, he would not have sought to discover it through the intellect.³⁴

2. Narrations are the source of rulings

The most significant argument of the Akhbārī's non-authenticity of

³² Murtaḍā al-Anṣārī, *Farā'id al-uṣūl* (al-Nashr al-Islāmī: 1995), 1:20.

³³ Muḥammad al-Kulaynī, *al-Kāfi* (Dār al-kutub al-Islāmiyya: 1986), 2:74.

³⁴ Sobhani, *al-Mabsūṭ*, 3:97-8.

intellect is the following *ḥadīth*. Imam al-Ṣādiq (a) says:

أَمَّا لَوْ أَنَّ رَجُلًا صَامَ نَهَارَهُ وَقَامَ لَيْلَهُ، وَتَصَدَّقَ بِجَمِيعِ مَالِهِ، وَحَجَّ جَمِيعَ دَهْرِهِ،
وَلَمْ يَعْرِفْ وِلَايَةَ وَلِيِّ اللَّهِ فَيُؤَالِيَهُ، وَتَكُونُ جَمِيعُ أَعْمَالِهِ بِدَلَالَتِهِ إِلَيْهِ، مَا كَانَ لَهُ
عَلَى اللَّهِ ثَوَابٌ، وَلَا كَانَ مِنْ أَهْلِ الْإِيمَانِ.

Suppose a person fasts every day, spends his nights worshipping, gives all his property in charity, and performs Ḥajj all his life but does not recognise the *wilāya* of God's successor so that all his actions are guided by His successors' guidance; in that case, such an individual will not deserve any reward. Consequently, he will not be considered a *mu'min*.³⁵

This *ḥadīth* clearly indicates that all religious rulings should be driven via the infallible, not by intellectual reasoning.³⁶

In reply, it should be noted that just as the Qur'an has a cause of revelation (*sha'n-i nuzūl*), which makes the meaning of the verse clear, the narrations also have the cause of transmission of issuing (*sha'n-i ṣudūr*). These kinds of narrations refer to some scholars of Ahl al-Sunna, such as Abū Ḥanīfa, who ignored the narrations of the Ahl al-Bayt. Instead, they only referred to the Qur'an and the traditions of the Prophet. In addition to the Qur'an and narrations, they paid special attention to *istiḥsān* (juristic preference), *sadd al-dharā'i'* (prohibiting what may lead to sinning), and the like.

Contrary to Abū Ḥanīfa and the like, however, the Shī'ī jurists always cling to the Qur'an and the narrations of the Ahl al-Bayt. If the Qur'an and *ḥadīth* are silent, they look to consensus (*ijmā'*) and intellect. It seems that al-Astarābādī has not paid attention to the cause of transmission of issuing of these narrations.³⁷

³⁵ Al-Āmilī, *Wasā'il al-Shī'a*, 27:42.

³⁶ Al-Anṣārī, *Farā'id al-uṣūl*, 1:19.

³⁷ Sobhani, *al-Mabsūṭ*, 3:98; Sobhani, *al-Wasīṭ*, 2:28-9.

3. Non-authenticity of intellect

The scholars of the Akhbārī school maintain that intellect holds no value and authenticity in the realm of jurisprudence. They refer to the following *ḥadīth* from Imam al-Bāqir (a):

قَالَ أَبُو جَعْفَرٍ (ع): مَنْ أَفْتَى النَّاسَ بِرَأْيِهِ فَقَدْ دَانَ اللَّهُ بِمَا لَا يَعْلَمُ، وَمَنْ دَانَ اللَّهُ بِمَا لَا يَعْلَمُ فَقَدْ ضَادَّ اللَّهَ، حَيْثُ أَحَلَّ وَحَرَّمَ فِيْمَا لَا يَعْلَمُ.

If someone issues a *fatwā* based on his opinion, he is worshipping God ignorantly and has actually opposed God; his *fatwā* is without basis.³⁸

For them this *ḥadīth* proves that intellect cannot be a source in jurisprudence, as Imam al-Bāqir (a) considered the view of such a *mujtahid* baseless.³⁹

In response, it should be clarified that the meaning of *ra'y* (opinion) is not intellect; rather, it refers to probable knowledge.⁴⁰ Therefore, if someone issues a *fatwā* based on probable knowledge that does not have a specific basis, he has actually opposed God.⁴¹

4. The Qur'an and Ḥadīth as exclusive sources

The Akhbārī scholars maintain that the Qur'an and narrations are the only acceptable sources in the jurisprudential domain.⁴² They refer to the following *ḥadīth*:

³⁸ Al-Kulaynī, *al-Kāfī*, 1:58.

³⁹ See also al-Ḥā'irī al-Iṣfahānī, *Al-Fuṣūl*, 319.

⁴⁰ Sobhani, *al-Mabsūṭ*, 3:98-9.

⁴¹ Muḥammad Hādī al-Sharīf al-Shirāzī, *al-Kashf al-wāfī fī sharḥ Uṣūl al-Kāfī* (Dār al-ḥadīth: 2009), 248-9.

⁴² See Muḥammad Amīn al-Astarābādī, *al-Fawā'id al-madaniyya wa-l-shawāhid al-makkiyya* (Jāmi'at al-mudarrisīn: 2003), 47-50.

مَنْ أَخَذَ دِينَهُ مِنْ أَقْوَاهِ الرِّجَالِ أزالَتْهُ الرِّجَالُ، وَمَنْ أَخَذَ دِينَهُ مِنَ الْكِتَابِ وَالسُّنَّةِ
زَالَتِ الْجِبَالُ، وَلَمْ يَزُلْ.

Whoever takes his religion from the mouth of people [their undocumented opinions], the same people can expel him from his religion. But the one who takes his religion from the Qur'an and the infallible Sunna will remain steadfast in his faith and belief even if the mountains fall.⁴³

In reply, this narration refers to those who ignored the Qur'an and *hadith* from the beginning, while the Qur'an and *hadith* are two primary sources for Shī'ī jurists.⁴⁴ Accordingly, if Shī'ī jurists find pieces of evidence from the Qur'an and *hadith*, they cling to them. Therefore, the first source of Shī'ī jurisprudence is the Qur'an and *hadith*. If these two are silent on a matter, the jurists go to the intellect or consensus.

Moreover, in many places the Qur'an calls upon man to make use of intellectual discernment. In addition, the infallible Imams have also stressed the significance of the evidence provided by intellect in those domains where the intellect is competent to judge; the Seventh Imam referred to revelation as outward evidence and intellect as inward evidence:⁴⁵

يَا هِشَامُ، إِنَّ لِلَّهِ عَلَى النَّاسِ حُجَّتَيْنِ: حُجَّةٌ ظَاهِرَةٌ وَحُجَّةٌ بَاطِنَةٌ. فَأَمَّا الظَّاهِرَةُ
فَالرُّسُلُ وَالْأَنْبِيَاءُ وَالْأئِمَّةُ، وَأَمَّا البَاطِنَةُ فَالعُقُولُ.

Truly God possesses two pieces of evidence which He has imposed upon mankind: outward and inward evidence. The outward one comprises the messengers, the prophets, and the Imams; and the inward one is the intellect.⁴⁶

⁴³ Al-Āmilī, *Wasā'il al-Shī'a*, 27:132.

⁴⁴ Sobhani, *al-Mabsūṭ*, 3:99-100.

⁴⁵ Sobhani, *Doctrine*, 3-4.

⁴⁶ Al-Āmilī, *Wasā'il al-Shī'a*, 15:207.

In light of what has been mentioned, in many cases a jurist can employ intellect in the realm of jurisprudence. The narrations of the Imams do not absolutely prohibit intellect. Therefore, intellect can reveal religious rulings in the three mentioned types.

Summary

Intellect is one of God's blessings upon man. This article assessed the authority of the rule of intellect from two perspectives. First, the judgement of intellect as an example of certitude (*qaṭʿ*). Second, the validity of the rule of intellect since it is the discoverer of the laws of *sharīʿa*.

First: when a *mujtahid* reaches certainty, his certainty has three features:

1. Discovery (*kāshifiyya*): it reveals the truth, even if only for him.
2. Accountability (*munajjiziyya*): when his certainty is in accordance with the actual ruling, it makes the real ruling definitive for him. In this case, he will get rewarded for obedience, just as he is worthy of punishment for contravening the ruling.
3. Exculpability (*muʿadhdhiriyya*): if he realises after obeying that his certainty was wrong, he will be excused.

Second: the validity of intellect as a discoverer of the rules of *sharīʿa*. There are three types of rational arguments: induction, analogy and logical deduction.

1. Analogy: the transition from one thing to another, due to their similarity, is called analogy. There are two types of analogy: a) *manṣūṣ al-ʿilla* b) *mustanbiṭ al-ʿilla*. The Imāmī jurists accept the analogy of *manṣūṣ al-ʿilla* and issue *fatwās* accordingly. However, they do not accept *mustanbiṭ al-ʿilla*.

2. Induction: when we examine the various details, we can derive a general rule from it. There are two types of induction: a) incomplete and b) complete. The first one is a non-definitive reason; and, consequently, cannot be regarded as proof in Imāmī jurisprudence. Although the

second one, i.e. complete induction, leads to certainty, it is practically impossible. Moreover, it cannot be a source of inference since a *mujtahid* does not attain any information previously unknown.

3. Logical Deduction: in the eyes of Uṣūlīs, logical deduction is divided into three types a) independent dictates of reason (*al-mustaqilla al-‘aqliyya*). b) Non-independent dictates of reason (*ghayr al-mustaqilla al-‘aqliyya*). c) Understanding of benefits (*maṣāliḥ*) and harms (*mafāsīd*).

a) In the first type of logical deduction, both minor and major premises are derived from intellect. For instance, intellect believes that justice is good. Moreover, it claims that “what is rationally necessary, *sharī‘a* makes it obligatory”. In light of these two premises, intellect concludes that justice is a religious obligation. In this case, Imāmī scholars believe there is harmony and correspondence between such a general intellectual ruling and the ruling of the *sharī‘a*.

b) The second type, i.e. the non-independent dictates of intellect, refers to cases in which the intellect alone cannot discover the religious rulings; instead, intellect can discover another religious practice with the assistance of a religious ruling. For example, God has made Ḥajj obligatory for affordable individuals, but it is silent about the obligation of its preliminaries, such as applying for a ticket, visa, etc. Here intellect maintains a logical connection between performing Ḥajj and its preliminaries.

c) Understanding of the benefits and harms: from the Imāmī perspective, God commands an act due to benefit, and likewise, He prohibits an act due to its harm. This is due to the fact that God, as the Qur’an states, “is the absolute Truth, thus His acts are all true, they are devoid of any kind of falsehood or vanity.” The important question is: if we accept that the yardstick for religious commands and prohibitions is the existence of benefits or harms, can a *mujtahid* issue a *fatwā* if he finds this yardstick?

In response, this article made it clear that the benefit or harm concluded by the jurist may be one of two ways.

1. The jurist's awareness of the benefit or harm of an act has reached a point where all wise individuals have a unanimous opinion about it. In this case he could issue a *fatwā* with the support of specialists in consensus.

2. The jurist's cognition of the benefit or harm of an act is not in such a way that all experts are at one over it. Imāmī jurists believe that, in this case, the jurist cannot issue a ruling based on his personal inference.

This article discussed that contrary to the Uṣūlīs, a group of Akhbārīs believed that intellect cannot be the discoverer of religious rulings. They denied the authority of intellect in the realm of the derivation of religious rulings. Astarābādī, in *al-Fawā'id al-madaniyya*, presents four arguments.

First: Astarābādī asserts that Uṣūlīs discover God's decree via the assistance of intellect. This argument depends on the fact that God already had a ruling that was not reached to the *mujtahid*, and was later discovered via intellect. Nonetheless, God may have no ruling on a particular matter at all.

Second: some narrations clearly indicate that all religious rulings should be driven via an infallible, not by intellectual reasoning.

Third: they hold that there is no authenticity of intellect in the realm of jurisprudence. They argue that intellect cannot be a source in jurisprudence.

Fourth: Akhbārī scholars maintain that the Qur'an and narrations are the only acceptable sources in the jurisprudential domain.

However, Imāmī Uṣūlīs reply to these four Akhbārī obstacles, and they hold that, in many places, the Qur'an calls upon man to make use of intellectual discernment.

In light of what has been mentioned, in many cases, a jurist can employ intellect in the realm of jurisprudence. The narrations of the Imams do not absolutely prohibit the intellect. Therefore, intellect can

reveal the religious rulings in the three mentioned types.

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