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THE JURISPRUDENCE OF EVENTS ACCORDING TO THE SCHOLARS OF COUNTRIES BEYOND THE RIVER

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ABSTRACT:

Praise be to God, we praise Him, we seek His help, we seek His guidance, and we seek His forgiveness, and we seek refuge in God from the evils of ourselves and from the evils of our deeds. He whom God guides, there is no misleading him, and he who misleads, there is no guide for him, and you will not find a guardian and a guide for him.

And I bear witness that there is no god but God, alone, without partner, a testimony that is accepted and ascended, there is no likeness of Him to be found, there is no god but Him to be worshiped, and there is no other generous one who is intended, for He is the most deserving of those who are praised. And I bear witness that our Master Muhammad is His one and preferred servant and Messenger, Al-Hamid Al-Ahmad, the Most Generous, the Most Glorious, an inexhaustible sea of generosity. So, prayers and peace be upon him and his family and companions as long as a dove sang on a branch and sang. Then, **the legal sciences** are among the sciences to which God guided us, so we were guided. Just as God has illuminated the heavens with the moving stars and planets, so He has illuminated the earth with jurisprudence and legal rulings, so people are blessed with them in all circumstances, livelihoods and purposes; In order to bring interests and ward off evil. The greatest and most honorable of sciences is "what in which reason and hearing are combined, and in it is accompanied by opinion and the law, and the science of jurisprudence and its foundations of this kind; it takes from the purity of the law and reason the right path, so it is not an act of pure reason, so that the law does not receive it with acceptance, nor is it based on pure imitation. Which the mind does not bear witness to with support and reimbursement." ⁽¹⁾

There is no doubt that **the countries beyond the river** were and still represent great scientific and cultural centers, from which the lights of Islam and its sciences emanate.⁽²⁾ Many of the Companions who guided its people to the right path and taught them great sciences settled in it. In their circles, the followers and then the scholars who carried the banner of knowledge after them came out, so they transmitted the provisions of the Qur'an, memorized the Prophetic Sunnah, and worked hard in the emerging jurisprudence issues, in accordance with Islamic Sharia... None of them spared any effort in any of the issues.

And **the jurists of Transoxiana** were able to combine the text and the application of reason in dealing with emerging issues, as their ijihad on the facts was in accordance with Islamic legislation.⁽³⁾

The countries beyond the river have provided us with geniuses from the masters of Islamic jurisprudence scholars who are famous for their fatwas of events and calamities that concern every Muslim; Because it keeps pace with life developments and addresses emerging problems.

The importance of the topic: The importance of research in jurisprudence of realities lies in achieving and emphasizing very important matters, including:

- The Central Asian republics' interest in studying the heritage of their venerable scholars, and their keenness to serve Islamic culture.
- Jurisprudence is one of the most prominent religious sciences that scholars have worked in. Its status in Sharia is the same as the soul in the body. Jurisprudence links Muslims to divine legislation, and the ensuing elicitation of the ruling and then its application. Therefore, he was needed to manage the affairs of Muslims, and to set rules that were compatible with Islamic law, and commensurate with the religious transactions of Muslims, and their personal conditions. The validity of Islamic legislation for every time and place. Taking into account the requirements of human needs.
- Missing the opportunity to adopt positive laws that contradict Islamic Sharia.
- Renewing Islamic jurisprudence by means of jurisprudence in accordance with the Sharia, and in keeping with the continuous changes.
- The link between the books of incidents, calamities and fatwas with reality, and therefore it is worthy of devoting to them and studying them; To clarify the reality of the facts and the judgments of the jurisprudence.

The Aim of The Research:

Unveiling much of our deep-rooted heritage in jurisprudence of realities, and urging people to work in this important field. Highlighting the efforts of Transoxiana scholars in serving and enriching Islamic jurisprudence.

Previous Studies:

I did not find a study devoted to research on the jurisprudence of realities for scholars of countries beyond the river, but there are many books that talked about the jurisprudence of calamities and the method for deriving their provisions - in general - or according to belonging to a school of jurisprudence. Therefore, the research required high accuracy and scrutiny in the bellies of the various sources and references, as the information was scattered in the various books of jurisprudence.

Research Methodology:

I used the descriptive-analytical approach in dealing with the scientific material, and what achieves its objectives, as I monitored the jurisprudential situation in those countries and the sayings and fatwas of scholars on some issues of facts. I also documented the words of scholars by referring to the original books - if any - and I also relied - in this study - on a number of sources and references related to the subject.

Search Plan:

I sought in this research, tagged with **(the jurisprudence of realities for scholars of countries beyond the river)** to highlight the efforts of the scholars of those countries that adapt to the difference of time and place. It has been divided into **two chapters and a conclusion:**

I devoted **the first topic** to talk about the approval of Islamic legislation for emerging issues, where I explained the meaning of the terms related to the jurisprudence of facts and their origins, then I moved to talk about the types of calamities and their considered divisions, and the doctrinal interpretation of the incidents, and I realized the statement in the universality of Islamic legislation.

In **the second topic**, I showed the jurisprudential heritage of the country beyond the river, so I dealt with the most famous schools of jurisprudence, and I added that by talking about the most famous jurists, and their classes. **In the conclusion**, I summarized the results of the research.

THE INTRODUCTION

Praise be to God, we praise Him, we seek His help, we seek His guidance, and we seek His forgiveness, and we seek refuge in God from the evils of ourselves and from the evils of our deeds. He whom God guides, there is no misleading him, and he who misleads, there is no guide for him, and you will not find a guardian and a guide for him.

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There is no doubt that **the countries beyond the river** were and still represent great scientific and cultural centers, from which the lights of Islam and its

sciences emanate. ⁽⁴⁾ Many of the Companions - may God be pleased with them - who guided its people to the right path and taught them great sciences, settled in their circles, then came out in their circles the followers and then the scholars who carried the banner of knowledge after them, so they transmitted the provisions of the Qur'an, memorized the Prophet's Sunnah, and worked hard in the emerging jurisprudential issues, in accordance with the Islamic law. None of them spared any effort in any of the issues. And the countries beyond the river have provided us with geniuses from the masters of Islamic jurisprudence scholars who are famous for their fatwas of events and calamities that are of interest to every Muslim; Because it keeps pace with life developments and addresses emerging problems.

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The importance of research in jurisprudence of realities lies in achieving and emphasizing very important matters, including: The Central Asian republics' interest in studying the heritage of their venerable scholars, and their keenness to serve Islamic culture.

- **Jurisprudence** is one of the most prominent religious sciences that scholars have worked in. Its status in Sharia is the same as the soul in the body. Jurisprudence links Muslims to divine legislation, and the ensuing elicitation of the ruling and then its application. Therefore, he was needed to manage the affairs of Muslims, and to set rules that were compatible with Islamic law, and commensurate with the religious transactions of Muslims, and their personal conditions.

- **The validity of Islamic legislation** for every time and place. Taking into account the requirements of human needs.

- Missing the opportunity to adopt positive laws that contradict Islamic Sharia.

- Renewing Islamic jurisprudence by means of jurisprudence in accordance with the Sharia, and in keeping with the continuous changes.

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The Aim of The Research:

Unveiling much of our deep-rooted heritage in jurisprudence of realities, and urging people to work in this important field. Highlighting the efforts of Transoxiana scholars in serving and enriching Islamic jurisprudence.

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I did not come across a study devoted to research on **the jurisprudence of realities among scholars of countries beyond the river**, but there are many books that talked about the jurisprudence of calamities and the approach to deducing their rulings - in general - or according to belonging to a school of jurisprudence. Therefore, the research required high accuracy and scrutiny in

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In the conclusion, I summarized the results of the research; Where I saw it highlighted, it was the fruit of this research.

Perhaps this book has been supplemented, and perhaps I have filled a gap that was vacant in Islamic studies research. If I have been successful, then God is the favour, and if the other, then God is the conciliator and the guide to the right path.

God grants success

THE FIRST TOPIC

Approval Of Islamic Legislation for Emerging Issues Meaning of Jurisprudence Terms

The Concept of The Term Facts:

Al-Waqi'at language: the plural of waqi'ah, which is a feminine reality, and its triple root (wq q) indicates the fall of something..⁽⁵⁾ The reality of falling is a fall. We say: fall on something, and from it it falls, and it falls: that is, it fell.

And the severe catastrophe of the time of eternity..⁽⁶⁾ It is only said in distress and hated.

And most of what came in the Qur'an from the word "fall" came in torment and hardships.⁽⁷⁾

And it is said: I came down with them, a calamity, a vice, an accident, then a permanent, a cunning, a wretched one, then a naughty, a wretched, an impoverished, then a faint, an afflicted and a slanderous one, then a wretched, a wretched and a wretched one..⁽⁸⁾

Examples of calamities include: strife, floods, epidemic, drought, war, and others. Idiomatically Facts:

Incidents: Fatwas derived from emerging accidents. Incidents according to jurists are like cataclysms, but scholars often use them in transactions.

The Hanafis use the term "haqiyat" to refer to every issue that the later mujtahids deduced when they were asked about it, and the early ones did not speak about it. ⁽⁹⁾ Or say: They did not find in it a narration from the people of the earlier sect, and they are Al-Qadi Abu Yusuf and Muhammad bin Al-Hassan Al-Shaibani, their companions, and the companions of their companions..⁽¹⁰⁾

The incident or incident in the jurisprudential use is an emerging issue or issue that occurred among the people, and there is no special legislative text in it, so the jurist deliberately derives its ruling from the legal evidence or extracts it according to the rules of his doctrine or fatwa according to one of the narrations, sayings or faces in the doctrine.⁽¹¹⁾

And the books classified under the name (Books of Incidents) are the books of fatwas: they are answers to the issues that occurred and occurred, so the mujtahids deduced them when they were asked about them, and they did not find a previous narration in them according to the advances of the sect..⁽¹²⁾

A jurisprudential term has appeared for the incident, which is: (the legitimate incident), which was collected on (the facts), it is an incident or a situation that takes place without a person's choice, such as birth, death, madness, wealth and the passage of time, and the law has a ruling on it, it is not a verbal act like contracts, or actually like murder. Rape, picking and reviving the dead. Rather, it is a material act that takes place without human choice. ⁽¹³⁾

And the name of the incidents - which expresses calamities, issues, rulings, questions and answers, and fatwas - was well-known in the Persian lands beyond the river, and they intended by it to rule on afflicting matters and to seek fatwas for emerging incidents, and disputed matters. Therefore, these countries were known for their abundance of classification in the art of jurisprudence of facts and fatwas, especially according to the Hanafi school of thought, which was prevalent in the countries beyond the river. Therefore, they call the facts about every issue on which the scholars of the first class of the Hanafi school did not speak, while the scholars of the rest of the madhhabs call the facts about every issue on which they did not find a word for the scholars before it, whether they were from their madhhab or not..⁽¹⁴⁾

There are very many names and terms used for realities, and they mean things that are descending, new or contemporary, including: jurisprudence of calamities - jurisprudence of reality - jurisprudence of purposes - jurisprudence of priorities - fatwas - issues - questions - answers - answers - judgments - contemporary issues - issues emerging.

The jurisprudential fact is related to all the circumstances surrounding it and the circumstances and conditions. Those who study the jurisprudence of realities are the people of solution and contract from among the mujtahids who meet the conditions of ijihad, so they approach the study of the incident to show its legal ruling, and this will achieve the advancement of the Islamic religion and the definition of the whole world that Islam is a complete, comprehensive, comprehensive and valid religion for every time and place. The books of jurisprudence and its foundations, the jurisprudence rules, and the graduations are all considered servants of the jurisprudence of realities, as they are the basis for deriving legal rulings for emerging or emerging matters.

The Reason Why the Jurists Called the Incidents Catastrophes:

Most of the jurists express the realities of calamities; This is because the incident is a recent incident that requires a statement of judgment. There are reasons why the jurists called the incidents catastrophes, including: - That the incident is a coming issue whose ruling is unknown, it is resolved by the individual or the group, so look here for the meaning of solutions.⁽¹⁵⁾

- Or that the incident expresses the mere occurrence of the calamity in reality.⁽¹⁶⁾
- Or that the incident is intended to be severe, like a disaster, so it is in the sense of an order and a great severe sermon that befalls people, and then they need to raise it, and clarify its legal ruling..⁽¹⁷⁾
- Or to note the meaning of the severity of what the jurist suffers from in extracting the ruling of the calamity, and what he may need of diligence from falling into error in it..⁽¹⁸⁾

Calamities:

Nawazil in the language: the plural of descending, and its origin is from the verb (to descend), which means to descend and fall. The Calamity: The severe calamity of the hardships of time befalls people.⁽¹⁹⁾ And it was said: The calamities are from descending, which is the solutions.⁽²⁰⁾

Examples of these calamities include: war, epidemic, drought, rain, torrential rain, strife, and the like. Idiomatic calamities: I did not find a definition of calamity according to the previous ones, but the calamity was mentioned without a definition or a detailed statement..⁽²¹⁾

The calamities refer to fatwas and incidents in the Hanafi terminology,⁽²²⁾ This was evident among the scholars of the country beyond the river. In the Maliki terminology in Andalusia and the Maghreb, it is applied to cases and facts that judges decide according to Islamic jurisprudence..⁽²³⁾ According to

most of the Shafi'i jurists, it applies to the calamities and hardships that befall the matter, so Qunut is prescribed for them ⁽²⁴⁾. Imam al-Shafi'i - may God have mercy on him - said: "And there is no qunoot in any of the prayers except for the morning prayer, unless a calamity descends, and it is qunooted in all the prayers, if the imam wills." ⁽²⁵⁾ In anticipation of these calamities, the Hanbalis also prepared for them by emphasizing the application of reason by ijtihad in accordance with the Shariah, and making them an absolute independent mujtahid, a sufficiency obligation that must be present at all times. ⁽²⁶⁾

As for the later scholars, many knew it, including: Ibn Abdeen, who defined it as: "Fatwas and realities, and they are issues that the later mujtahids deduced when they were asked about it, and they did not find a narration in it from the people of the earlier sect." ⁽²⁷⁾

Among the most famous definitions of contemporaries, Dr./ Wahba Al-Zuhaili defines it as "issues or developments emerging in society due to the expansion of business and the complexity of transactions, for which there is no direct legislative text, or previous jurisprudence that applies to it. Its forms are multiple, renewable, and different between countries or regions. due to different local customs and customs." ⁽²⁸⁾

Most of the definitions of contemporary researchers about catastrophes revolve around new incidents and incident issues (the facts) in which there was no text or ijtihad, and require ijtihad to clarify their ruling or how people deal with them. This meaning is the most common on the tongues of the jurists ⁽²⁹⁾.

In summary, without dependence: the idiomatic meaning of calamities is related to the linguistic meaning, so if some accidents, new issues and new facts happen to the diligent jurist, such as calamities or hardships on the common people in terms of being sudden to him, and then it requires the mujtahid to exert his best effort and invoke his scientific ability jurisprudence to derive its ruling; Because it is a novel that did not come down the text or where another worked before it.

Therefore, the term calamities are common and spread among the jurists in general, and this is evidenced by the words of Ibn Abd al-Barr: "Chapter of Ijtihad of opinion on the principles when there are no texts while the calamity was revealed." ⁽³⁰⁾ Responding to fatwas in calamities is a trust that God has entrusted to scholars, and it must be performed in the best way.

Morocco and Andalusia were the most categorized countries in the jurisprudence of calamities according to the Maliki approach, especially after the tenth century AH, when the Islamic West was alone in the Maliki calamities, due to Morocco's maximum independence from Turkish influence through which the Hanafi school of thought prevails among the Turks.

Despite the fame of the events in the country beyond the river, some of its scholars used other terms to refer to them during their composition, such as:

calamities and fatwas. ⁽³¹⁾ This also happened with the scholars of the Islamic West. Despite the fame of calamities among them, they used to call some of their works other terms, such as: Standard and Answers. ⁽³²⁾

There are many terms that express realities and calamities, although they differ in some of their contents with new events according to the difference of the sect and the change of the times, including: jurisprudence of facts, jurisprudence of reality, fatwas, developments, accidents, contemporary issues (emerging cases), jurisprudence of purposes, and jurisprudence of priorities. , and jurisprudence of budgets.

Among the most famous books of events in the country beyond the river and others:

- The book (Fatwas al-Nawazil), which is called (The Collection of Anecdotes of Issues with Evidence), and the book (The Eyes of Issues) by Abu al-Layth al-Samarkandi al-Hanafi (d. 375 AH).
- The book (Majmoo' al-Fatwas) by Ibn Abi Bakr al-Hanafi (d. 522 AH).
- The book (Al-Waqi'at) by Al-Sadr, the Martyr Al-Hanafi (d. 536 AH).
- The book (The Doctrines of Rulers in the New Testaments of Judgments) by Judge Iyadh (died 544 AH), and his son Muhammad.
- The book (Al-Nawazil), which is called (Majmoo' Al-Nawazil) and (The Incidents and Incidents) by Al-Hanafi (d. 555 AH).
- The book (The Choices of Calamities) by Al-Marginani Al-Hanafi (d. 593 AH).
- The book (The most beneficial means to determine the issues) by Al-Arsusi (d. 785 AH). The book (Al-Waqi'at) by Al-Sadr Ibn Masoud.
- The book (Dia Al-Siyas and Fatwas Al-Nawazil, which is one of the branches of religion from the issues) by Ibn Fodi.
- The book (Charity Fatwas for the Benefit of the Wilderness) by Al-Ramli (d. 1081 AH).
- The book (The Muftis' Incidents) by Abd al-Qadir Qadri-Effendi al-Hanafi (d. 1085 AH).

Types And Divisions of Calamities:

Calamities Vary in Terms of Incidence to The Following Types:

The first: calamities that occurred in the past and I answer them, and under this type the following calamities fall:

1- Calamities that occurred during the time of the Prophet - 2- Calamities that occurred during the time of the Companions or the followers and after them.

The second: Calamities that the Messenger informed about will happen in the future.

The third: catastrophes that did not occur, but the jurists talked about them and issued fatwas about them as a matter of hypothesis.

Fourth: calamities that did not occur before, and the jurists did not refer to them in any way whatsoever.

It is this type that is validated by the term (the incident) or (the calamity); Because it is in the sense of the great command and speech that comes down to the people, so they need to remove it from them to clarify the legal ruling in it.⁽³³⁾

The Calamities Can Be Divided According to Several Considerations, As Follows:

The Calamities Are Divided According to Their Location Into:

1- Jurisprudence issues: which were among the practical legal rulings.
 2- non-jurisprudential calamities: such as streptococcal calamities; Such as the emergence of some sects and bees, emerging forms of polytheism, and examples of contemporary linguistic issues; As naming some new inventions. Thus it is known that the term jurisprudence of calamities includes all calamities, whether fiqh or not. As for defining the term jurisprudence of calamities on jurisprudential calamities in particular and restricting it to only others, it is inaccurate. Calamities are divided in terms of their severity and importance into:

1- Major calamities: They are the fateful issues that befell the nation of Islam, that is, those incidents and calamities that are plotted to eliminate Muslims by their enemies, and the related intrigues, conspiracies, and declared and undeclared wars in various fields, military, intellectual, economic, political and social.

2- Other catastrophes without that.

• Catastrophes are divided, in view of their frequent occurrence and spread, into:

a. calamities that no one is spared -mostly- from being afflicted; Such as photography, and dealing in banknotes.

B. catastrophes whose occurrence is exaggerated; Like praying on the plane, and dealing with bank cards.

c. catastrophes are less frequent; Such as political asylum, and the treatment of a member who has been damaged by a limit, or because of a crime committed by him. Dr.. catastrophes have ceased to occur and disappeared, and they have become forgotten; Such as the use of cannons and telegrams to prove the entry and exit of the month of Ramadan. Calamities are divided according to her grandmother into: a. Pure cataclysms, which have never occurred before, neither a little nor a lot, such as test-tube babies. B. Relative calamities, which have already occurred before, but developed in terms of their causes and the surrounding reality, and were renewed in some of their bodies and conditions, until they became in this view as if they were a new calamity, such as installment sales, medical surgical operations, and marriage with the intention of divorce..⁽³⁴⁾

Jurisprudential Graduation of The Facts:

Every incident must be judged by God, and no event is without judgment.

Those who respond to realities and calamities are the mujtahids, and therefore the one who deals with them and gives fatwas about them must meet the conditions of ijtiḥād.⁽³⁵⁾ Including: knowledge of the Book and the Sunnah with regard to rulings, knowledge of jurisprudence and its foundations, places of consensus and disagreement, sections of ḥadīth, knowledge of the purposes of Sharia, and knowledge of the Arabic language..⁽³⁶⁾

So, ijtiḥād on the facts is a duty on this nation, as it is one of the obligations of sufficiency, and this duty may be required of some who are prepared to consider some of the incidents, so looking into an incident or some calamity becomes a specific duty for these people..⁽³⁷⁾

And if there is no mufti who is diligent and he finds a transfer of doctrines, with special qualities of acumen, civility, depth in the doctrine and its understanding, etc., and an incident occurs that requires a fatwa, then if he is quoted from the doctrine of an advanced Imam, then he follows what is authentically transmitted. And if the incident was not stipulated in the doctrine of an advanced imam, then if it was in the meaning of what was stipulated after reflection and ijtiḥād, then it would be attached to the text. To share meaning. And because the books of the imams are not devoid of general rules regulations under which others fall. And if a fact is imposed that is not contained in texts and is not controlled by the limits of links and mosques, and it is not in the meaning of what the texts contain, then the statement about it is attached to the speech if time is free from the transition of schools..⁽³⁸⁾

And if the incident occurred in a time when the muftis - the mujtahids and the transfer of schools of thought - must be adhered to the rules of the principles of Islamic Sharia by which it is measured, and therefore the rules of each sect must be established in every jurisprudential section, in a way that facilitates reference to them and analogy with them. This is exactly what the jurists of Transoxiana were doing, who followed the rules of the Hanafi school of thought, and relied on general rules in jurisprudence of issues that were quoted from Abu Yusuf and Muhammad ibn al-Hasan al-Shaybani.

And if there was a lack of perception of the incident, and an inability to extract it doctrinally, or the evidence became equivalent and there was no ability to give preference to one saying over another, then it is necessary to stop issuing a ruling, until the evidence becomes clear. And this is what Ibn Abd al-Barr decided, when he said: “And whoever is confused by something, he must stop, and it is not permissible for him to refer to God a saying in his religion, which has no equivalent in origin, nor is it in the meaning of an origin, and this is what is not disputed among the imams of the ancient cities and recently, consider it.”⁽³⁹⁾

The Universality of Islamic Law:

Legislation is a divine attribute. It is in the meaning of the Islamic faith that it is one of the characteristics of lordship and divinity, and among the requirements of the testimony that there is no god but God and that Muhammad is the Messenger of God. Islamic law came to keep pace with the

difference in time and place. Islamic jurisprudence has never stood in the face of accidents, nor was it narrowed down to a ruling for a dilemma of any kind, whether civil, criminal, or family. Rather, it was, and is, until the end of the hour, capable of carrying out the burdens of life, and answering every accident or calamity that confronts people in their advanced life: It is a well-developed jurisprudence that has neither stagnation nor reaction when it is properly applied, and it developed at an amazing speed in the first days of *ijtihad*, then this movement weakened in it after the spread of *taqlid*, but it did not die..⁽⁴⁰⁾

And the Prophet -God prays on him- made clear in his words and actions the provisions of what was presented to people of accidents, drawing them from revelation, and the Prophet - God prays on him - laid for us wise principles in morals and types of worship, and valid rules in the family system and the education of young people, and solid foundations for the rules of social ties, so he enacted The laws in transactions and felonies and the relations with each other that guarantee peace and security on earth, and even the etiquette of eating and drinking, the etiquette of peace, and what should be in travel, residence, health, sickness, wealth and poverty, all of this was concerned with it and left us in it high examples of education, and models Suitable for training and education ⁽⁴¹⁾ He was an example to follow in everything.

The Islamic system is comprehensive for the individual, for the group, for the family and for society in its civil and commercial relations, and for crimes and their penalties prescribed by Sharia. Such as the limits, which are left to the discretion of the people concerned, such as *ta'azir* - which are punitive punishments - and this includes what is now called (criminal or penal legislation), and penal laws. It includes what is related to the government's duty towards the governed, the duty of the governed towards the rulers, and the regulation of the relationship between the two parties, and comprehensive with what regulates international relations in peace and war..⁽⁴²⁾

Since Islamic legislation relies in most of its rulings on *ijtihad* ⁽⁴³⁾ The Islamic state does not dispense with the presence of a group of people of *ijtihad* who have fulfilled its conditions, and have been given the full ability, to refer to them in understanding the texts of the divine law and its application, and the legislation of rulings and laws for what it finds of issues and accidents, and the interests and needs that arise..⁽⁴⁴⁾

Islam is a divine creed system characterized by perfection and comprehensiveness, and is based on morals, virtue and respect for human rights, and calls for the preservation of covenants and pacts, and achieves justice and equality, and does not know arrogance, nor robbery of people's capabilities, nor work with deceit and deceit. This is explained by Gustave Le Bon, when he mentioned that when the Arab Christians were expelled from Spain in 1610 AD, they took all pretexts to kill them, so most of them were killed, and the total of the Arabs who perished was three million, while the Arabs, when they conquered Spain, left the population enjoying their religious freedom, preserving their religious freedom. With their institutes and their presidency, they are only required to pay the *jizya*, and the tolerance of the

Arabs throughout their rule in Spain reached an amount that rarely happens in these days..⁽⁴⁵⁾

The characteristics and components of Islam made it a global system. Its legislation and laws are valid for every time and place. Because it included all people's benefits, met their needs, and was based on bringing interests and preserving them, and warding off and repelling evil. The Islamic Sharia has put in place ways to treat the provisions it finds. It has legislated ijihad to clarify the provisions of matters and problems that do not have a provision stipulated in the Sharia, such as it has legislated the reprimand for the treatment of crimes for which the Sharia did not provide for an estimated punishment. The amount of punitive measures, their types and characteristics change according to the time and place of interest..⁽⁴⁶⁾

Therefore, the investigators from among the scholars have decided that fatwas change and differ according to times, places, conditions and customs. ⁽⁴⁷⁾ But it does not contradict the Islamic curriculum.

The Second Topic

The Jurisprudential Heritage Of The Country Beyond The River

During the Islamic conquest of the country beyond the river, the conquests of the country of Khorasan witnessed many companions and followers -ψ- and the matter did not stop at the conquest only, but some of them settled in it until his death. Al-Hakim said: "Those of the Companions who descended into Khorasan -ψ- and died there: Buraidah bin Husayn Al-Aslami, buried in Marw, Abu Barzah Al-Aslami, Al-Hakam bin Amr Al-Ghafari, Abdullah bin Khazim Al-Aslami, buried in Nisayur, Burstaq Juwayn. Quthm bin Al-Abbas, buried in Samarkand." ⁽⁴⁸⁾

Al-Hakim narrated from Abdullah bin Saad bin Al-Azraq on the authority of his father, he said: I saw a man from among the companions of the Prophet - PBUH - in Bukhara on his head with a black pumice turban. ⁽⁴⁹⁾ Al-Hakim narrated from Abdullah bin Saad bin Al-Azraq on the authority of his father, he said: I saw a man from among the companions of the Prophet - peace be upon him - in Bukhara on his head with a black pumice turban..⁽⁵⁰⁾

And the descent of the Companions and the Followers - may God be pleased with them all - in one of those countries had a positive impact, as knowledge spread there, and intellectual and cultural life became active in its cities, and even became scientific centers intended by students of hadith and jurisprudence, and traveled to it from all sides.

Among the most famous of these centers are: Dinur - Hamadan - Qazvin - Gorgan - Nishapur - Tus - Herat - Marv - Balkh - Bukhara - Samarkand - Shash - Faryab - Khwarazm - Shiraz - Isfahan - Rai..⁽⁵¹⁾

Therefore, Transoxiana was rightfully considered the inheritor of the sciences of the Khorasan Province, which embraced an authentic Islamic civilization. The Companions who were in the country beyond the river:

Quthm bin Abbas bin Abdul Muttalib bin uncle of the Prophet - God prays on him - was martyred in Samarkand and was buried there, Al-Hakam bin Amr bin Mujda Al-Ghafari (died 50 AH) was buried in Marw, and Qurayt bin Abi Ramtha opened the abla and then invaded Khurasan. Al-Aslami (died 63 AH) went out to Sijistan, then to Merv, where he was buried. Abdullah bin Al-Hasib Al-Aslami, brother of Buraydah, inmate of Khorasan, and Abu Barzah Nadla bin Ubaid Al-Aslami (d. 65 AH) came down to Marv, and it was said that he was buried in the Klapaz cemetery. Allah bin Khazim Al-Sulami, Amir Khorasan, buried in Nishapur, Burstaq Jawain, Humam bin Zaid bin Wabisah Al-Wabisi entered Nishapur and settled there and died there, and Abu Al-Qasim Qais bin Saad bin Ubadah Al-Khazraji (d. 85 AH) lived in Tbilisi and died there..⁽⁵²⁾

As for the followers who were in the country beyond the river, they are:

Yahya bin Yamar Al-Basri, the Linguist (died before 90 AH) - from Bani Awf bin Bakr - the first to recite the Qur'an, lived in Marw and was its judge. And Abu Sahel Abdullah bin Buraida bin Al-Hussain Al-Aslami Al-Marwazi (died 115 AH), the sheikh and judge of Maru, died in Maru and his grave was in Jarosa, one of its villages..⁽⁵³⁾

The Most Famous Schools of Jurisprudence:

The Hanafi sect appeared in the second century AH at the hands of Abu Hanifa al-Nu`man bin Thabit al-Kufi (d. 150 AH), and the Hanafi sect gained great prestige, and spread in Iraq, India, China, countries beyond the river and all foreign countries. ⁽⁵⁴⁾ There were many reasons that led to the expansion and expansion of the Hanafi school, including: its lack of adherence to reality, its interest in new issues for which no text was revealed, and its publication of fatwas dealing with some of the issues that he imposed and the extent of their occurrence. ⁽⁵⁵⁾ And its reliance on opinion and measurement, and being compatible with the development of life. Therefore, Hanafi jurisprudence prevailed in Transoxiana until it became a popular doctrine among the people ⁽⁵⁶⁾

One of the reasons for the popularity of the Hanafi school was also that it was the doctrine of the Abbasid state, which supported it ⁽⁵⁷⁾ And then the Ottoman Empire, which was ruling and supporting him. The Hanafi jurisprudence was the adopted school of the Abbasid and Ottoman caliphs, as the country beyond the river had a strong connection with the center of the Abbasid caliphate in Baghdad, which was the center of the Hanafi school, and then these countries had a strong connection with the Ottoman Empire.

Referring to the Hanafi sources, such as; The Sunni classes, the golden jewels, the crown of translations, the Hanafi classes, and others. We find that the number of Hanafi jurists in the country beyond the river reached seventy-four

Hanafi jurists, and the first to classify the Hanafi jurisprudence in the country beyond the river with regard to the facts was Abu al-Layth al-Samarkandi (d. 375 AH).), where he classified (Fatwas al-Nawazil), and the first author of the Hanafi school of jurisprudence in the country beyond the river is the book (Taqweem of Evidence) by Abu Zaid al-Dabousi (d. 430 AH), where it was completed by the Hanafi school of jurisprudence, its issues were refined, and its rules were paved. This book was singled out by Abu al-Muzaffar al-Sama'ani al-Hanafi and then al-Shafi'i by replying in his book "Wati'at al-Adalilah." The author of Abi Zayd al-Dabousi is the best of what was written according to the Hanafi method for the earlier scholars, and the best of what was written among the later ones is the authorship of Seif al-Islam al-Bazdawi. ⁽⁵⁸⁾ (d. 482 AH), he is the Sheikh of the Hanafi school in the country beyond the river.⁽⁵⁹⁾

The Hanafi sect is still followed in the countries of Central Asia (Country Beyond the River). The state of Turkmenistan belongs to the Hanafi sect, where Muslims represent the largest percentage in the state of Turkmenistan affiliated with that sect, they make up 89% according to the World Factbook ⁽⁶⁰⁾Or 93%, according to the Pew Studies Center.⁽⁶¹⁾

In Kazakhstan (Kazakhstan), they work according to Hanafi jurisprudence, where fatwas are based on the sayings of Abu Hanifa and his two companions, Abu Yusuf and Muhammad, and Hanafi scholars. And they depend on the issues of the fundamentals, which are the issues of the apparent meaning of the narration, which was narrated from the great adherents of the doctrine: Abu Hanifa and his two companions. Fatwas in Kazakhstan in particular and Central Asia in general are carried out according to the Hanafi school. ⁽⁶²⁾

As for Uzbekistan, the Hanafi madhhab is spread to the extent that whoever does not adhere to it in worship is considered corrupt in the religion, and is prevented from attending mosques. It is especially widespread in the region (which has the Naqshbandi Sufi drink). ⁽⁶³⁾ Where it was famous in its jurisprudential side for embracing two schools of thought, one of which has achieved wide spread, which is the doctrine of Imam Abu Hanifa, which is the dominant one, and the doctrine of Imam Shafi'i. ⁽⁶⁴⁾

In Kyrgyzstan, most of the population belongs to the Hanafi school, as they are an extension of the Ottoman Empire. As for Tajikistan, the majority of Tajiks belong to the Hanafi sect, except for the mountainous Badakhshan region, where its residents belong to the Ismaili sect.

Then the Maliki school of thought appeared with the Imamate of the Imam of the House of Hijrah Malik bin Anas bin Malik Al-Asbahi (d. 179 AH), and it gained acceptance from the people, so a group of Muslims aligned with it. As the Maliki school of thought was little spread in the countries beyond the river, no one appeared in the countries of the East who spread the Maliki doctrine; Because of the residence of many of the students of Imam Malik in Egypt and Tunisia, and therefore his fame was more among the people of Morocco and Andalusia. ⁽⁶⁵⁾It spread all over West Africa ⁽⁶⁶⁾ Where he received great attention there, and the Malikis were alone in the Nawazil trend in the Islamic

Maghreb, so their books in this area were called Nawazil, and they were influenced by the approach of Imam Malik.

The Maliki school of thought was little spread in the countries beyond the river due to the predominance of the Hanafi and Shafi'i schools of thought among the people of those countries..⁽⁶⁷⁾

The Shafi'i sect appeared at the hands of Imam Muhammad ibn Idris al-Shafi'i al-Hashimi (d. 204 AH), and it gained wide fame until it became a strong competitor to the Hanafi madhhab. Rather, it was shared by fatwa and teaching, as it spread in Iraq, Egypt, Khorasan and the country beyond the river..⁽⁶⁸⁾

Despite the authority and strength of the Hanafi school of thought in those countries, the Shafi'i school was contested by its popularity, as its scholars transmitted its original books and spread them among the intellectuals from the people and cities beyond the river, and even tried to convince the rulers and sultans with it to make it the doctrine of their states. ⁽⁶⁹⁾ The Shafi'i school of thought succeeded in imposing its presence in the country beyond the river thanks to the efforts of its jurists and followers.

And we can say: The Shafi'i school of thought was ranked second after the Hanafi jurisprudence in the Central Asian region in terms of its spread.

Imam Ahmad bin Muhammad bin Hanbal al-Baghdadi (d. 241 AH) came with his Hanbali school of thought, but he did not gain the fame of the Hanafi and Shafi'i schools of thought in the country beyond the river, as it was the least widespread of the doctrines; This is because the Hanbalis are more famous as hadith scholars than jurists, and because of the tyranny of the Hanafi school of thought in those countries, and the competition of the Shafi'i school of thought with it. Also, other schools of thought did not live up to the status of the Hanafis and Shafi'is.

Despite the strength of the Hanbali men of jurisprudence, its spread was not commensurate with this strength. The followers of the sect were few among the common people, and some of them were in the province of Najd and the Arabian Peninsula, ⁽⁷⁰⁾ Others are in Syria and Iraq. ⁽⁷¹⁾ And the truth is that the students of Imam Ahmad bin Hanbal bear a large part of the responsibility for the non-proliferation of the Hanbali school of thought in the country beyond the river, as most of them remained by the side of the founder of the school in Baghdad and did not return to his homeland to spread the doctrine among students of knowledge. The fame of the Hanbalis in the country beyond the river was as hadiths and not as scholars, and the evidence for this is that Abu al-Hasan al-Tirmidhi al-Hanbali traveled to Baghdad to learn from Imam Ahmad bin Hanbal, ⁽⁷²⁾ And he said about one of his visits to the imam of the school of thought: "I asked Abu Abdullah - Ahmad bin Hanbal - I told him: Do I write the books of Al-Shafi'i?!!

That is why we found the students of Abi Al-Hasan among the great hadith scholars and scholars of the causes of hadith, jarh and modification, and they

are: Al-Bukhari (d. 256 AH), Al-Tirmidhi (d. 279 AH), Ibn Khuzaimah (died 311 AH), Abu Zara' Al-Razi (d. 280 AH), and Abu Hatim Al-Razi (d. 277 AH). This means that the modern tendency is dominant among the Hanbali jurists in the country beyond the river, so their diligence is less in the branches of the jurisprudence school. This is not surprising, as Imam Ahmad himself was a hadith before he was a jurist, to the extent that he compiled a hadith and left its chain of hadith for us, and he did not put a book on Hanbali jurisprudence.

If we investigate the Hanbali scholars in the country beyond the river through the Hanbali sources; For example: the books of the Hanbali classes, their translations, and their historical sources, we find that their number is only about fifteen scholars.

In summary, without dependence: The Hanafi school of thought was and still is predominant in the countries beyond the river, where it depends on ijtiḥād by opinion and analogy in accordance with Islamic legislation in new cases, and this corresponds to the development of life, especially social life in terms of the multiplicity and diversity of economic and criminal matters, and others. The Hanafi madhhab was not the only one that called for diligence and the realization of reason in accordance with Islamic law, but this was present in other schools of thought. "It does not come down to any of the people of God's religion except in the Book of God the evidence for the path of guidance in it."⁽⁷³⁾

And here is the Hanbali school of thought, despite its lack of spread in the countries beyond the river, but it is considered one of the richest schools of jurisprudence, as it called on its companions to make ijtiḥād. The existence of an absolute independent mujtahid is an obligation of sufficiency, and it is not valid for an era to be devoid of it."⁽⁷⁴⁾

The Maliki jurists were interested in diligence in the new facts in which there was no text and no ijtiḥād was preceded in them, as Imam Malik, may God have mercy on him, said: "I have reached this country and they have nothing but the Book and the Sunnah."⁽⁷⁵⁾

The Most Famous Jurists:

Among The Most Famous Hanafi Jurists in Transoxiana:

Abu Ishaq Ibrahim bin Maaqil Al-Nasafi Al-Hanafi (died 295AH), Abu Ahmad Nabhan bin Ishaq Al-Biskasi Al-Bukhari Al-Hanafi (died 310AH), Abu Yaquob Ishaq bin Ibrahim Al-Shashi Al-Hanafi (died 325AH), Abu Ali Ishaq bin Ibrahim Al-Khorasani Al-Shashi Al-Hanafi (died 344AH), and Abu Al-Laith Nasr bin Muhammad al-Samarqandi al-Hanafi (died 375 AH), Abu al-Hasan Ali ibn Muhammad al-Bazdawi al-Hanafi (died 482 AH), Abu al-Yusr Judge Muhammad ibn Muhammad al-Bazdawi al-Hanafi (died 493 AH), Abu Bakr Abu Mansour Alaa al-Din Muhammad ibn Ahmad al-Samarqandi al-Hanafi (died 539 AH), and Abu al-Ma'ali ibn Abi al-Yusr Judge Al-Sadr Ahmed bin Muhammad Al-Nasafi Al-Bazdawi Al-Hanafi (d. 542 AH), the

king of scholars Alaa Al-Din Abu Bakr bin Masoud Al-Kashani or Al-Kasani Al-Hanafi (d. 587 AH), Sheikh Al-Islam Burhan Al-Din Ali bin Abi Bakr Al-Farghani Al-Marginani Al-Hanafi (d. 593 AH), and Muhammad bin Muhammad Al-Akhsithithi Al-Hanafi (d. 644 AH).), Abu Al-Barakat Abdullah bin Ahmed Al-Nasfi Al-Hanafi (d. 710 AH), and others whom we cannot enumerate and show their translation in one research restricted to limited pages.

Among the Maliki jurists:

Abu Bakr Jaafar bin Muhammad al-Firaibi al-Maliki (d. 301 AH), Abu al-Hasan Muhammad ibn Jaafar al-Firaibi al-Maliki (d. 340 AH), and others, although their number is small compared to the Hanafi and Shafi'i jurists.

Among The Most Famous Shafi'i Jurists Are:

Muhammad bin Aqeel Al-Faryabi Al-Shafi'i (died 285 AH), Abdan bin Muhammad Al-Marwazi Al-Shafi'i (died 292 AH), Abu Jaafar Muhammad bin Ahmed Al-Tirmidhi Al-Tirmidhi Al-Shafi'i (died 295 AH), Abu Wael Auf bin Issa Al-Farghani Al-Shafi'i, Muhammad bin Ali Al-Qaffal Al-Shashi Al-Kabeer Al-Shafi'i (died 365 AH), and Abu Al-Fadl Ahmed bin Ali Al-Sulaimani Al-Bikandi Al-Shafi'i (died 404 AH and it was said 412 AH), Abu Al-Hasan Ali bin Al-Hajib Al-Shashi Al-Shafi'i (died 413 AH), Abu Bakr Abdullah bin Ahmed Al-Marwazi Al-Qaffal Al-Shashi Al-Saghir Al-Shafi'i (died 417 AH), and many others.

Among the Hanbali jurists:

Abu al-Hasan Ahmad ibn al-Hasan al-Tirmidhi al-Hanbali (died 245 AH), Abu Ismail Muhammad ibn Ismail al-Tirmidhi al-Hanbali (died 280 AH), and other few Hanbali scholars.

Classes Of Jurists:

The classes of jurists according to the Hanafi school are represented in seven layers, which are:⁽⁷⁶⁾

- 1- The class of mujtahids in the Shari'a; Like the four imams - may God have mercy on them - and those who followed their path in establishing the foundations of the foundations.
- 2- The class of the mujtahids in the sect; Like Abi Youssef and Muhammad bin Al-Hassan Al-Shaibani.
- 3- A class of mujtahids in matters in which there is no text on the authority of the doctrine, and those who are not able to contradict either in the fundamentals or in the branches, but they derive rulings on issues in which there is no text according to the principles and rules, and from this class: Al-Khasaf, and Abu Jaafar Al-Tahawi, And Abu al-Hasan al-Karkhi, and Shams al-Imam al-Halawani, and Shams al-Imam al-Sarkhi.
- 4- The graduate class of imitators; Kalrazy and jasas.
- 5- The preferred class of imitators; Like Abu Al-Hassan Al-Qadduri.

6- A class of imitators who are able to distinguish between the strongest, the strong, the weak, the apparent doctrine and the rare narration; Like the owners of the reputable texts, such as: Hafez Al-Din Al-Nasafi - the owner of the treasure of minutes.

7- The class of imitators who are not able to do what has been mentioned.

The works on Hanafi issues according to the jurists of Transoxiana are divided into three ranks or classes, which are: The first rank: issues of assets, and the apparent doctrine. It was called so because it was a book that collected the issues narrated from the early imams of the sect: Abu Hanifa (died 150 AH), Abu Yusuf (died 182 AH), and Muhammad ibn al-Hasan (died 189 AH), and Zaffar (d. 158 AH), and Al-Hasan bin Ziyad (d. 158 AH) joins them (d. T. 204 H). They are also called (the books of the apparent novel); Because it was narrated on the authority of Muhammad ibn al-Hasan with the narration of trustworthy ones ⁽⁷⁷⁾ It is established from him, either frequent or famous ⁽⁷⁸⁾ Second place: issues of anecdotes, or what is not apparent in the narration; For the receipt of those books in a way without the fame and frequency. These are the books compiled by Muhammad ibn al-Hasan when he spent his time in Transoxiana ⁽⁷⁹⁾ Or it is attributed to people in those countries. ⁽⁸⁰⁾

The third rank: issues of incidents, fatwas, or calamities, which are issues that the later mujtahids deduced and did not find a narration in them, and they are the companions of Abu Yusuf and Muhammad ibn al-Hasan, and the companions of their companions when they were asked about it and did not find a narration from the forerunners, and they are many, among them: Ibn Rustam and Muhammad ibn Samma'a, and Abu Suleiman Al-Jurjani. ⁽⁸¹⁾

THE CONCLUSION

After that, praise be to God for His perfect success, and thanks to Him for the complete blessings and grace that He has made easy for us. God has blessed me with completing this research, and I ask Him – Almighty - to make it an acceptable work, purely for His sake.

After a thorough researcher's tour in the fields of jurisprudence of facts, emerging issues, and the efforts of scholars of countries beyond the river in them, it is true for me to show the most important results that I concluded and reached through this research.

These Are the Most Prominent Results Obtained:

- The jurisprudence of events or calamities adapts to reality and its changes in a way that links people to Islamic law, introduces them to the correct application of legal rulings according to the variables, and achieves benefits for them.

-The validity of the provisions of Sharia with different times and places, and their universality in line with the requirements and needs of mankind.

- Transoxiana gave birth to imams of scholars in Islamic jurisprudence, especially jurisprudence of realities, as they contributed to supplying this

science with its various types, and as a result, students of knowledge received jurisprudence from its companions.

- The Hanafi jurisprudence is the most famous in the country beyond the river, or the popular doctrine among its peoples; This is because the Hanafi jurists were concerned with deriving the reasons for the rulings and applying them to emerging issues and issues developed in different eras, and the Hanafi jurisprudence was not bound by reality, but rather surrounded the fatwa on issues of its imposition and the extent of its occurrence. Because of the strong connection of Transoxiana with the center of the Abbasid Caliphate in Baghdad, where the Hanafi school of thought followed the Abbasid state, and then Baghdad was the center of the Hanafi school, and from it it spread in Transoxiana. Hanafi control continued with the Ottoman Empire following this doctrine.

- The Shafi'i school of thought occupied the second place in spread in the country beyond the river after the Hanafi school; Because of the large number of Imam Shafi'i students who excelled in spreading the jurisprudence of their Imam, the Shafi'i school of thought was a strong competitor to the Hanafi school.

- The spread of the Maliki school of thought has decreased in the country beyond the river; Because of the few students of Imam Malik there, and the predominance of the Hanafi and Shafi'i schools of thought among the people of those countries.

- The Hanbalis had a strong presence in the countries beyond the river, but they were more famous in hadith than in jurisprudence. The strength of the men of Hanbali jurisprudence, and that is why it was considered the least prevalent sect in the countries beyond the river. To show that led to the weakness of its spread, and few followers of the Hanbali school.

- In formulating their ideas and opinions, the jurists of Transoxiana depended on the main sources of Islamic legislation (the Qur'an and Sunnah), as well as the opinions of scholars of the schools of thought to which they belong. And their opinions varied to include the owners of schools of jurisprudence of thought. And it became clear the personality of the scholars of the country beyond the river, where they were building sayings, and commenting on them, and outweighing the opinions of the school to which they belong, although most of their opinions belong to the thought of the Hanafi school.

And then, I considered this research to be a useful set of those conclusions that I concluded.

I hope that I have succeeded in what I wanted and achieved what I wanted.

Praise be to God first and foremost for his good luck and great guidance. And pray, peace and blessings of God be upon our Master, our Master Muhammad, and upon all his family and companions .

And the God of the intent behind,,,

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