Al-Ghazālī on the Essentials of Interpretative Autonomy (Ijtihād)[i]

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What is Ijtihād? Who is qualified for it? And is it possible for a person to be a mujtahid in a single issue?

The integrals of interpretative autonomy (al-ijtihād) are three things: i) the exercise of interpretative autonomy itself; ii) the person carrying out the process (al-mujtahid); and iii) the matter which is the subject of interpretative autonomy (al-mujtahad fīhi).

As for the first integral—the exercise of interpretative autonomy, it is an expression of the exertion of effort and the exhaustion of one's utmost capacity to carry out a particular action. It is a word (ijtihād) that is only used with respect to things that demand a significant burden and effort. Consequently, it is said [in Arabic], *ijtahada fi haml hajar al-raḥa* (he exerted effort to carry the stone of the hand mill). However, it is never said, *ijtahada fi haml khardala* (he exerted effort to carry a mustard seed). On the other hand, the word is now used in the ranks of the scholars with the specific meaning of the *mujtahid's* exertion of effort in seeking knowledge of the judgments of the Sharī'a. Complete *ijtihād* is when one exerts his utmost in the search in such a manner that he senses in himself that there is nothing left to search for.

As for the second integral—the *mujtahid*, it has two prerequisites. The first requirement is that he encompass all of the tools and sources for apprehending the sacred law (madārik al-shar') that furnish one with the capacity to establish near certainty (istithāra al-ẓann) upon examining them, and to prioritize the most important and authoritative of sources over those of lesser authority. The second requirement is that one be upright avoiding sins that impair one's good moral standing ('adāla). Such is stipulated for the permissibility of relying on a person's fatwa such that the fatwa of one who is not upright is deemed unacceptable. This, however, does not apply to [the binding application of the fatwa to] one's self. This means that good moral standing is more so a prerequisite for the acceptability of the fatwa [in the public realm], not a prerequisite for the soundness of exercising interpretative autonomy (ijtihād).

Then, if one was to ask, "When has one acquired all the tools for interpreting the sacred sources, and what are the forms of knowledge that one must possess in order to qualify for exercising interpretative autonomy in detail?", we would respond by saying that one will be capable of issuing fatwa only after he knows the sources that contain legal judgments (aḥkām) and the rules for extracting benefit from *those sources*. The sources that contain legal judgments as we have already explained are four: The Book (Qur'ān), the Prophetic Tradition (Sunna), Consensus (Ijmā'), and Reason ('Aql). The manner of extraction, on the other hand, is effectuated via four disciplines: two of them are preparatory (muqaddam). Two are remedial (mutammim), and there four are intermediate (wasaṭ). This equals eight in all. Let us, now, elucidate them and raise certain subtleties that legal theorists have neglected [to mention].

As for the Book of Allah ﷻ, it is the foundation. Knowledge of it is absolutely necessary. However, let us cast off the burden of two matters: firstly, knowledge of the entire Book is not a requirement. Rather, one must only know the extent that pertains to legal judgments (aḥkām). That is the extent of 500 verses.[1] Secondly, it is not a requirement to commit them to memory. All one needs is to have knowledge of their locations [in the Qur'ān] so that one merely searches for the required verse when he needs to access it.

[1] In the view of Ibn Qayyim al-Jawziya, the number of verses required for absolute interpretative autonomy is merely 150, not 500. Qāḍī Abū Bakr b. al-'Arabī was of the view that the required number of verses is actually more like 364 verses. Some scholars, though, state that this disagreement relates to the particular legal approach adopted by the scholar. For this reason, there are those who often extrapolate legal judgments from verses that outwardly refer to matters of creed, etc.

As for the Sunna, one is required to know the hadiths that pertain to legal judgments [as well]. They are, in spite of numbering higher than the thousands, nevertheless limited. The same two exemptions [as in the case of the Qur'ān] apply to it in that knowledge of traditions pertaining to admonishment, matters of the Hereafter, and others is not a requirement [for interpretative autonomy]. One is also not required to commit them to memory. Rather, it suffices to own a corrected source of all the hadiths that pertain to legal judgments. It is also sufficient for one to know the location of each chapter so he might refer to it when it is necessary to issue fatwa. It is, however, even better and closer to perfection if one is able to memorize them.

As for Consensus, one should be able to distinguish the areas of consensus so that one does not issue fatwa in contravention to consensus; just as it is binding for one to know texts that are univocal and indisputably authentic (nuṣūṣ) so he does not issue fatwa in contravention of them. The area of ease that exists in this source is that one is not required to commit to memory all points of consensus and disagreement. Rather, one merely should know about every issue about which he issues fatwa that his fatwa does not contravene consensus. That is either by knowing that it conforms to one of the views of the scholars irrespective of who it is or by knowing that this is an unprecedented scenario found in one's own age in which the people of consensus have not indulged. So this extent of information is sufficient.

As for Reason, what is meant by it is the basis upon which one has determined that the legal judgments are presumptively inapplicable (al-nafy al-aṣlī li al-aḥkām). This is because reason dictates that hardship is negated from [certain] statements and actions as well as from the applicability of [certain] legal judgments to a limitless number of scenarios. As for those scenarios that the Book and the Prophet Tradition exclude from this [significant number], those scenarios are limited in number even if they are numerous. For that reason, in every new situation (wāqi'a) one should return to the rule of presumptive inapplicability and presumptive innocence, and know that that can only be altered by an authoritative text (naṣṣ) or by drawing an analogy from a text (manṣūṣ). So, one is to pursue, in the search for authoritative texts and in the meaning drawn from texts, consensus and the actions of the Messenger in addition to what the action implies according to the condition by which we have elucidated these four sources of the sacred law (madārik).

As for the ways of extracting judgments, we know these through two preliminary disciplines. The first of them is the knowledge of the evidentiary indications [of thought] and their conditions by which demonstrative proofs (barāhīn) and evidences produce meaning. The need for this applies to all the four sources of the sacred law (madārik). The second is the knowledge of language and grammar in such a manner by which comprehension of the discourse of the Arabs is made easy for him. This applies particularly to the Book and the Prophetic Tradition. There are also details involved with both of these disciplines that contain areas of both ease and complexity. As for the details of the first discipline, it is to know the divisions of evidence, their forms, and conditions. For example, one is to know that evidence is of three categories: i) rational [evidence] that inherently produces meaning; ii) scriptural [evidence] that constitutes proof by the convention of the sacred law; and iii) conventional evidence which is a reference to linguistic expressions, knowledge of which is perfected by what we have mentioned in the introduction to the legal foundations among the sources of rational judgments (madārik al-'uqūl) [but] no less than it. For the one who does not know what constitutes evidence will know neither the reality of the judgment nor the reality of the sacred law. He also will not know the path to knowledge of the Lawgiver or how to know the one the Lawgiver has sent. Then, they (the scholars) have stated that one must acknowledge the emergent nature of the world and its need of a creator who is characterized by His essential qualities while being declared free of all from which He is deemed indescribable (yastahilu 'alayhi), and also that He has employed His servants in worship in accord with the mission given to the messengers, affirming their truthfulness by miracles. Let one be aware of the truthfulness of the Messenger and look upon his miracle. The point of ease in this area, in my view, is that all that is compulsory from this summary is to have firm faith, since by it one becomes a Muslim. Islam is, also, undoubtedly a condition for the mufti. As for knowing the approach of dialectical theology (kalām) and the evidences outlined according to that custom, this is not a prerequisite, since

there was not among the Saḥāba and Tābiʿīn anyone who mastered the art of dialectical theology. As for transcending the limit of uncritical imitation (taqlīd) in that to the point of knowing the evidence [of the theological teachings], it is also essentially not a prerequisite. It is, however, an inevitable byproduct of the status of interpretative authority. That is because no one reaches the rank of interpretative autonomy (ijtihād) without becoming privy to the evidences of the predecessors of knowledge, the attributes of the Creator, the dispatching of the messengers, and the inimitability of the Qur'ān. For the Book of Allah consists of all of those topics. Such yields real knowledge and takes a person beyond the limits of uncritical imitation (taqlīd) even if he has not practiced the art of dialectical theology. So these are the inescapable results of the office of interpretative autonomy to the extent that if a pure uncritical follower (muqallid) was to form a mental image (tasawwara) with reference to the affirmation of the Messenger's truthfulness and the foundations of faith, it would be possible for him to exercise interpretative autonomy in legal particulars (furūʿ) [once he is qualified, since he is Muslim].

As for the second preliminary discipline, it is the knowledge of language and grammar by which I mean the extent by which one is able to comprehend the discourse of the Arabs and their customs in usage to a point that one is able to distinguish between statements that are univocal (sarīḥ), pseudo-explicit (ẓāhir), polyvocal (mujmal), literal (ḥaqīqa), figurative (majāz), general ('āmm), specific (khāṣṣ), clearly expressed (muḥkam), allegorical (mutashābih), qualified (muqayyad), absolute (muṭlaq), explicit (naṣṣ), congruous (faḥwā), unfinished (laḥn), and discordant (mafhūm). The point of ease in this area is that one is not required to reach the rank of Al-Khalīl and Al-Mubarrid or to have a full knowledge of the language or to have a penetrating grasp of grammar. Rather, one merely needs to know the extent that pertains to the Book and the Prophetic Tradition by which he can masterfully identify the points of impact of the discourse and to grasp the true nature of what is intended by the statements.

As for the two remedial disciplines, one of them is knowledge of the abrogating and abrogated parts of the Book and the Prophetic Tradition. That concerns specific verses and hadiths. The point of ease in this area is that it is not a requirement for one to commit all of them to memory. Rather, one should merely know when issuing fatwa concerning any incident while using any verse or hadith that that hadith and verse is not included among the sum of those things that are abrogated. This also applies to the Book and the Prophetic Tradition. The second [remedial discipline]—which does not apply specifically to the Sunna—is to have knowledge of the science of narration (riwāya), and to distinguish sound narrations from those that are corrupt and those that are acceptable from those that are rejected. This is because anything that a trustworthy person does not convey from another trustworthy person has no binding authority. The point of ease in this area is that there is no need to verify the soundness of the chain of any hadith used in a fatwa included among those that the Umma has accepted even if some scholars happen to oppose it. So one should know its narrators and the extent of their moral rectitude such that if they happen to be well-known to the person as in what Shāfiʿī relates from Mālik from Nāfiʿ from Ibn 'Umar, for example, it is to be relied upon. That's because the integrity and good condition of these people is common knowledge among all. Good moral standing is known through experience and eye witness accounts or through indisputably authentic reports. Anything below this degree in knowledge is to be approached with uncritical acceptance (taqlīd). That is by uncritically imitating Bukhārī and Muslim in the reports of the *Two Ṣaḥīḥs*, since the two of them related them only from those whose moral rectitude they were familiar with. So this is pure uncritical acceptance. However, the state of uncritical acceptance is lifted once one knows the states of the transmitters upon hearing of those states and their biographies, and then to look into their biographies while concluding whether or not they necessitate that they are trustworthy. Such a pursuit is, however, lengthy, and is in our time in light of the numerous intermediaries [in the chains of narration] cumbersome. The point of ease in this area is that one may suffice to rely on the vindication of a trustworthy leader in his field (Imam) after we establish that his approach in issuing vindications [of transmitters] is a sound position. This is because views differ regarding the qualities that can be used as a valid basis for vindication or devaluation [of narrators]. For, undoubtedly, it is not possible to become acquainted or offer eye witness accounts of those who died some time before us. Were one was to stipulate that the life story of someone reaches the point of common knowledge

(tawātur) that would only hold true with respect to the famous Imams. So one is to uncritically imitate concerning the knowledge of a narrator's life story another who is trustworthy in what he reports, and we are to uncritically accept his vindication of the person after we have known that his views about the vindication of transmitters is a sound view. So, if we deem it permissible for the mufti to rely upon the sound hadith collections whose transmitters have been accepted by the Imams, the path of the mufti will be short. Otherwise, the matter would be a lengthy process, and the affair would be cumbersome in this age in light of the numerous intermediaries. The matter, then, increases in severity the more that time passes.

So these are the eight disciplines by which the rank of interpretative autonomy is acquired. However, there are three arts that make up most of that: the science of hadith, the science of language, and the science of the legal foundations. As for dialectical theology and the secondary particulars of jurisprudence, they are not essential [to this office]. How could someone need knowledge of the particulars of jurisprudence when these same particulars are the byproduct of the *mujtahids*, and they pass judgment about them after they achieve the rank of interpretative autonomy? Then, how could their knowledge be a prerequisite for the office of interpretative autonomy when having the qualification for interpretative autonomy prior to their production is a condition? Yes! It is true that the rank of interpretative autonomy is achieved in our time through the acquisition of those particulars. So it is the way of achieving the skill in this age even though that was not the way of doing so during the age of the Saḥāba. It, however, is also possible to take the same approach of the Saḥāba now.

A subtlety regarding ease that most people neglect:

The knowledge of all of these eight disciplines is only a condition for the absolute *mujtahid* who issues fatwa concerning the entirety of the sacred law. However, in my view, interpretative autonomy (ijtihād) is not a rank that cannot be partitioned off. **Nay! It is possible for it to be said that a scholar has achieved the rank of interpretative autonomy in some matters to the exclusion of others**. So if someone is adept at analogous discernment, he has the right to issue fatwa in an analogy based scenario even if he is not adept in the science of hadith. So one who looks into the issue of the *Mushtaraka*[2] [in inheritance law], it suffices for him to be a jurist in his own right acquainted with the foundations of inheritance law and its meanings even if he has not acquired knowledge of the reports that have come concerning the prohibition of things that produce inebriation or the issue of marriage without a guardian. This is because this issue is not an extension of those reports, and those hadiths are not pertinent to this issue. So on what basis is ignorance of such things a sign of imperfection? As for one who knows the hadiths concerning the rightful execution of a Muslim for his murder of one living under the Muslim protectorate (dhimmī) and the way to interact with it, what harms comes to him by not having knowledge of the grammar that will acquaint him with the proper way to understanding Allah's statement, *"And wipe your heads and [wash] your feet to the ankles"*? Analogize with it everything that falls within the same meaning. It is also not a requirement that a mufti offer an answer to every issue posed to him. This is because Mālik—may Allah show him mercy—was asked about 40 issues, and he said in response to 36 of them, "I don't know." Many

[2] The *Mushtaraka* scenario (also called the *Ḥimāriya* scenario) is a famous issue studied in inheritance law that pertains to two separate fatwas issued by 'Umar b. al-Khaṭṭāb due to the lack of any prophetic guidance in its regard. Heirs in inheritance law are divided into two basic categories: i) natural heirs, who are assigned a definite portion (aṣḥāb al-furūḍ); and ii) extended heirs, who are typically assigned portions of the inheritance in the absence of natural heirs (aṣḥāb ta'ṣīb). Sometimes natural and extended heirs share in the legacy when their numbers are small. However, there are times when the natural heirs or non-siblings bar extended heirs and siblings from receiving shares in the legacy. In the *Mushtaraka* scenario, a woman dies leaving behind her husband, mother, two male siblings, two female siblings, and three brethren of the same mother. According to the Qur'anic teachings, 'Umar awarded the husband with ½, the mother with 1/6, the three brethren of the same mother a collective share of 1/3, and he barred the siblings from their portion. Two years later, the same scenario presented itself to him, and he issued the same fatwa. The only difference is that this time the siblings returned to him to make a case for their inclusion in the legacy. One of them said, "O Commander of the Faithful! Consider this! Imagine our father as a donkey. Would we not still be all children of the same mother?" Upon reflection, seeing the similarity between this scenario and his preference of the brethren from the same mother, 'Umar, then, ruled in favor of including the siblings in the legacy. Some Ṣaḥāba supported the first fatwa, while others supported the second.

times Shāfiʿī—may Allah show him mercy—abstained from answering queries. Nay! Even the Saḥāba abstained in a number of issues. Hence, it is merely a condition that one have knowledge of that in which regard to one is issuing fatwa such that one issues fatwa concerning what one knows, he knows that he knows, and distinguishes between what he does not know and what he does know. Then, he is to pause concerning what he does not know, and issue fatwa concerning what he knows.

The second integral is the subject of interpretative autonomy (mujtahad fihi). The subject of interpretative autonomy refers to every scriptural judgment lacking in definitive proof. We qualified ["judgment"] with "scriptural" to avoid confusing it with rational judgments and issues taken up in dialectic theology (kalām). That's because there is only one truth in such matters, and the victor in such debates is only one, while the one who errs is sinful. However, what we mean by the subject of interpretative autonomy are those issues of concern wherein the errant scholar is not guilty of sin [for bringing forth an erroneous view]. As for the obligation of the five canonical prayers, the obligatory alms (zakat), and all the manifest teachings of the sacred law agreed upon by the Umma that have decisive proofs in their support, anyone who opposes those rulings is a sinner for doing so. Such matters are not open to interpretative autonomy. So, these are the integrals. If complete interpretative autonomy issues from one who is qualified and is applied in its proper place, the result that that exercise of interpretative autonomy leads to is deemed to be truth and correctness...

[i] Al-Ghazālī, Abū Ḥāmid Muḥammad. *Al-Mustaṣfā min ʿIlm al-Uṣūl*, Beirut: Dār al-Arqam b. Abī al-Arqam, 1994, 2/510-523