بسم الله الرحمن الرحيم

A Glossary of Shiite Methodology of Jurisprudence

(Uṣūl al-Fiqh)

A GLOSSARY OF SHIITE METHODOLOGY OF JURISPRUDENCE

(*Uṣūl al-Fiqh*)

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PREFACE

Uṣūl al-Fiqh, the methodology of jurisprudence, which is usually – and inaccurately, if not incorrectly – translated "principles of jurisprudence," is an Islamic science which is developed by Shiite scholars in two recent centuries into an unparalleled intellectual, logical system of thought and a comprehensive branch of knowledge which not only serves as the logic of jurisprudence but as an independent science dealing with some hermeneutical problems.

When the first English version of Shiite *uṣūl al-fiqh* in its both comprehensive and concise version was introduced by the book "*An Introduction to Islamic Methodology of Jurisprudence (Uṣūl al-Fiqh), A Shiite Approach*" (MIU Press, 2013), necessity of preparing a glossary of Shiite *uṣūl al-fiqh* was strongly felt. That is why this valuable task was undertaken, and, as usual, it could not be accomplished without full support of the dearest friend, Dr. Seyyed Mohsen

Miri, head of Islam and West Research Center of al-Mustafa International Research Institute (M.I.R.I).

The present work, which is, like its precedent, the first, is arranged on the basis of Arabic expressions, while presenting their English equivalents in parentheses. Secondary terms are referred to primary entries. "Al-" in Arabic terms is not considered. An index in the end of the book gives Arabic equivalents to English expressions used in this glossary. Since this work is a glossary, detailed discussion of each entry should be pursued in Shiite books on *uşūl al-fiqh*.

The last words of every accomplished task must be "Praise belongs to God, the Lord of all Being (Qur., 10: 10)."

Alireza Hodaee

Tehran, July 2013

Transliteration of Arabic Characters

Roman Equivalent	Arabic characters
’ (except when initial)	ء
b	ب
t	ت
th	ث
dj	ج
ḥ	ح
kh	خ
d	د
dh	ذ
r	ر
z	ز
s	س
sh	ش
ṣ	ص
đ	ض
ṭ	ط
ż	ظ
‘	ع
gh	غ
f	ف
q	ق
k	ك
l	ل
m	م
n	ن
h	ه
w	و
y	ى

Long Vowels	
آ	ā
ـُو	ū
ـِي	ī

Short Vowels	
ـَ	a
ـُ	U
ـِ	I

Diphthongs	
ـَو	aw
ـَي	ay
ـِيّ	iyy (final form: **ī**)
ـُوّ	uww (final form: **ū**)
ـِيا	iyā
ـّ	the letter is doubled

A

• *'Adam Ṣiḥḥat al-Salb* (Incorrectness of Divesting)

Usage of a term in its designated meaning is literally correct, in another meaning with which it has some pertinence along with some contextual evidence is figuratively correct, and in another meaning without any pertinence is wrong. Therefore, usage of a term literally and figuratively is correct and "the usage" cannot specify whether a term is designated for a meaning or it is used figuratively.

Now, should one know, through assertion of philologists, that a term is designated for a meaning it would be obviously clear that such word is to be used literally in that meaning and figuratively in other pertinent meanings. However, the case is not that clear sometimes and one may wonder how to treat the usage. What can one do in that case in order to find out whether such a usage is literally correct or it is figuratively so and hence one should use it with some contextual evidence?

Uṣūlīs have mentioned some signs of recognition of the literal meaning the most important of which being preceding (*al-tabādur* [*q.v.*]) and incorrectness of divesting (*ʿadam ṣiḥḥat al-salb*). By *ʿadam ṣiḥḥat al-salb* is meant that divesting a term of a meaning is not correct. To exercise this sign, let us consider the example of the term "lion." We know that this term is used for a specific animal literally and for a brave man figuratively. Since you cannot divest "lion" of that animal while you can do that of a brave man, *ʿadam ṣiḥḥat al-salb* is a sign which indicates the literal meaning of the term lion.

• *al-Amāra* (Authorized Conjectural Proof)

Uṣūlīs mostly use the term *amāra* (lit. sign) intending *al-ẓann al-muʿtabar* (the valid conjecture, i.e., the conjecture which is considered and made an authoritative proof by the divine lawgiver) and this may cause confusion that those two terms have the same meaning, while they do not. That usage is in fact a figurative one and not making another meaning for the word *amāra*. The literal object of denotation of *amāra* is whatever considered and made valid by the divine lawgiver because of its causing conjecture, such as the single transmission, and appearances. Here, either the name of cause, i.e., *amāra*, is used for its caused, i.e., conjecture, or that of the caused is used for its cause as it is *amāra* that causes conjecture. *Amāra* is figuratively called valid or particular conjecture because it always or mostly causes conjecture typically for most people – and that is why it is called typical conjecture (*al-ẓann al-nawʿī*). Since *amāra* is made valid and authoritative proof by the divine lawgiver because of that, it will be an authoritative proof for all people even though it may not cause

an actual conjecture for some of them. Hence, if an actual conjecture is not actualized by *amāra* for someone he should also follow it.

However, it should be noted that in books of *uṣūl* all such terms as "the particular conjecture," "the valid conjecture," "the authoritative conjecture," and the like are used while their cause, i.e., *amāra* is intended. It should also be borne in mind that the best English equivalent to *amāra* is "the authorized conjectural proof."

On the other hand, the term *amāra* does not include practical principle (→ *al-aṣl al-ʿamalī*), but rather is contrary to it; for the jurist can refer to practical principles where there is no authorized conjectural proof, i.e., where he finds no authoritative proof for the actual juristic precept. *Amāra* proves its object, but the practical principle does not. Practical principles do not indicate the actuality; they are references to which the duty-bound refers when he is in the state of perplexity and doubt with regard to the actuality – they are at most excusers for the duty-bound.

• *al-ʿĀmm* (General)

General is among clear, self evident concepts which need no definition but lexical explanation for the sake of bringing the meaning closer to the mind. By *general* is meant a term whose concept covers whatsoever capable of being conformable to its designation in realization of the judgment. A judgment, too, is sometimes called general due to its covering all instances of the object, the object of burden, or duty-bound.

With regard to direction of a judgment to a general,

generality is divided into three kinds: *al-ʿumūm al-istiġrāqī* (the encompassing generality), *al-ʿumūm al-maǰmūʿī* (the total generality), and *al-ʿumūm al-badalī* (the substitutional generality) [*qq.v.*].

• *al-Amr* (Command)

By *al-amr* (the command; Pl. *al-awāmir*) is meant *wish* (in the sense that one wants something to be done: *al-ṭalab*) which, in turn, means to express will (*al-irāda*) and desire through speech, writing, pointing, or the like; whether by such terms as "I command you" or by an imperative. Thus, the sheer will and desire without being expressed in some way is not called *wish*. However, any wish is not called command, but a specific one, that is, wish of superior from inferior. Hence, superiority is considered in the command, whether the superior demonstrates his superiority or not, and whether he uses an imperative (or uses the verb "command") or not – the only point is that he should somehow express his wish. On the other hand, wish of the one who is not superior, whether he is inferior or coequal, is not a command, even though he pretends superiority or uses an imperative.

As for the denotation of the command, it is a matter of dispute among *Uṣūlīs*. There are a variety of opinions in this connection the most important of which being obligation (*al-wuǰūb*), preference (*al-istiḥbāb*), and the common point between obligation and preference. The truth, however, is that the command is apparent in the obligation – not conventionally, but because of judgment of the intellect. It is intellect's judgment that when the Lord commands us we must obey Him and must be provoked in order to fulfill our