FAT'HU 'L-BASAA'IR
The Opening of the Mental Discerning Faculties

by Shehu Uthman Dan Fuduye’

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The fronticepiece is a rendition of the hatumere`, also known in Hausa as the ‘Wise man knot’. At its center are the words of Allah: “Victory is from Allah and the Opening is near so give Good News to the believers”, O Muhammad!

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فتح البصائر
لتثقيف وضع علوم البواطن والظواهر
بسم الله الرحمن الرحيم
صلَّى الله على سَيْبَانَا مَضِداً وَأَلِهِ وَصِحْبِهِ وَسَلَّمُ تَسليماً
قالَ الْعَبْدُ الْفَقِيرُ المَضِداً لَهُمْ رُبُّ عَلَمَانِ بَنْ مَضِداً بَنْ عَلَمَانِ المَغْرَفَ بَنِي فُرَّوْيِ،
تَعْمِدَهُ اللهُ يَرْحُمْهُ آمِنٌ، اللَّهُ الْمَلِكُ الْمُعْلِمُ، والصَّلاةُ وَالسَّلَامُ عَلَى مَضِداً سَيْبَانَا الْمُسْلِمِينَ
وَعَلَى أَلِهِ وَصِحْبِهِ أَجْمَعِينَ، أَمَّا يَعْدُ، فهَذَا كِتَابُ:
فتح البصائر
لِتَحْقِيق وَضْعٍ عِلْمِ البَوَاطِنِ وَالظَّواهر
قد أَوْدَعْتُ فيهِ عَشْرَ مَسَائِلَ:
المَسَائِلَةُ الأوَّلَةُ: فِي تَحْقِيق أَفْسَامِ الْمُسْلِمِينَ بِإِعْتِبارِ مَزَايِمِهِمُ فِي البَصِائِرِ.
وَالمَسَائِلَةُ الثَّانِيَةُ: فِي تَحْقِيق الإِيْمَانِ الْظَّاهِرِ وَالبَاطِنِ.
وَالمَسَائِلَةُ الْثَّالِثَةُ: فِي مَحْلُ تَحْقِيق مَحلُ الْإِحْكَامِ عِلْمُ الْذِّينِ الْذِّي هِيَ التَّوْحِيدُ وَالْفِهْمُ وَالتَّصُوْفُ.
وَالمَسَائِلَةُ الْزَّائِعَةُ: فِي تَحْقِيق ما هُوَ مِنَ فَرْوُضِ الْأَعْيَانِ وَمَا هُوَ مِنْ فَرَوْضٍ الكِتَابَاتِ مِنْ يَكَلِّعُ الْعِلْمُ.
وَالمَسَائِلَةُ الْخَامِسَةُ: فِي تَحْقِيق دِائِرَةِ الْحَقِّ.
وَالمَسَائِلَةُ السَّابِعَةُ: فِي تَحْقِيق دِائِرَةِ البَاطِنِ.
وَالمَسَائِلَةُ الْثَّامِنَةُ: فِي تَحْقِيق دِائِرَةِ الْظَّنِّ.
وَالمَسَائِلَةُ الثَّانِيَةُ: فِي تَحْقِيق جَمِيلَةِ أَقْوَالِ الْعِلْمَاءِ وَأَحْكَامِهَا.
وَالمَسَائِلَةُ الْثَّامِنَةُ: فِي تَحْقِيق التَّكَالِيفِ الْعَلِيَّةِ فَذَكَّرَتْ فِي زِمْنِ الرُّسُولِ عليهِ الصَّلَاةُ وَالْسَّلَامُ.
وَالمَسَائِلَةُ العَشِيْرَةُ: فِي تَحْقِيق إِخْتِلاَفِ الأَحْكَامِ فِي الشَّيْءِ الْوَاحِدِ إِخْتِلاَفِ الْوُجُوهِ فِيهِ.
المسألة الأولى
في تحقیق أقسام المسلمين بإعتبار مراكبتهم في البصائر
فأقول: وِيَبَّانِيِّنَّ التَذِيِّق، أَعْلَمْ أَنَّ أقسام المسلمين من هذه الأمة المُحْمَدَيِّة بإعتبار مراكبتهم في البصائر ستة: الأول: مَجْهَتُ التَالِق، والثاني: مَجْهَتُ التَّقْرِيب، والثالث: مَجْهَتُ التَّرْجِيح، والرابع: العالم، والخامس: المنْستَبَط بين العَلّاماء، والسادس: العام، وكلّ واحدٍ منهم أوصاف تُمَرِّث
عن غيره وَسَتَرَاها إن شاءَ الله تعالى.
مراكب المُجْهِتِين
[1] والٌوا ل مَتَّلِق أوصاف أٌخذت البَيْعَ لَأَن غَيْرَهُ لم يَكُم عَطْلّة حتَّى يُعْتَبَر قُوَّةً، وَتَذَايُهَا العَطَلَ لَأَن غَيْرَهُ لَا يَتَمْيَّزُ لَهْ يِهْتَدُى بَيْنَ لَا يَقُولُهَا حتَّى يُعْتَبَر، وَالثَّانِي: أن يكون قَبْيَةً النَّفْسٍ شَدِيدً، القبيه بالطِّبّ لِمَقْاسِدِ الكِلَامِ يَجِدُهُ لَا يَقُولُهَا لَن يَتَأَثِّرُ لَهُ عِنْدَ ماً مَكْفَّوًهُ بِالْتَّمْسَكَ بِهِ ما لَمْ يَنُقِّلْ عَنْهَا. والثامن: أن يكون مَتَّبِعًا في مَعْرِفَةِ الآتِلَ من البَلَاغة، والنَّحو إِغْرَا، وَتَصِيَّرَ في أُصْولِ النَّفْقِ، وَالْمَعَانِي، وَالْبَيْانَ لِتَوَافَقِ الإِسْتِبْطَأَ عَلَيْهَا، إِنَّهُ الأَصْلُ فَلَنَّهُ لَا يُعْرَفُ كَيْفَيًّا، وَأَنَّ الْبَيْانَ فَلَاتَهُ لَا يَقُومُ الْمَرَادُ مِنَ المَسْتَبِطِ مِنْهَا إِلَّا وَلَا إِنَّهُ عَرَبِيًّ بَيْنَهَا، والسادس: أن يَعْرَفُ مِنْ الإِسْتِخْرَاحِ السَّوْيِّيٍّ، وَقَدْ أَنْتَهَتْ أَحَدِتِ الْأَحْكَامِ صَحِيحَهَا وَحَسَّسَهَا وَضعُفَهَا، فَحَمْطَهَا في مؤلف مَجْهَتُ الآْلِيْسِيَّ مَيْنُ في حَلَّ كَلِّ حَدِيثِ مَرَثِبٍ عَلَى مَسَالِيِّ الْمَرَادَةِ نَافِعَ جَدًّا فِي هَذَا المَعْنِي، وَفِيهَا مَعَ التَّعَيِّنِ بالَمَعْرِفَةِ أنَّهُ لَا يَشْتَرَطُ حَفْظَ ذَلِكَ، وَهُوَ كَذَا، وَقَالَ السَّبَكُي: لَا يَكُتُبُ فِي المَجْهَتِينَ لَهُ عِنْدَ مَعْرِفَةَ، وَقَالَ السَّبَكُي أَيْضاً: لَكِنَّ لَا يَقُولُ الْإِسْتِبْطَأَ لَكُهُ مَتَّى مَثَلَّا بِهِ إِلاَّ أَن يَعْرَفُ مِنْ الإِسْتِخْرَاحِ كَيْ لَا يُحْرِفُهُ بِمَخَالِفَةٍ، فَالْشَّيْخُ وَلَيْ الْذِينَ: وَلَا يَشْتَرَطُ حَفْظَهَا، بِلِّ يَكُتُبُ مَعْرِفَةً بِأَنَّ مَا أَقْتَدَهُ بِهِ لَسْنَ مَخَالِفًا لِلَّذِينَ بُشْتَهُ بِمَخَالِفَةِ، إِنَّمَا بِأَنَّ يَكُتُبُ مَوْافِقَةً لِلَّذِينَ أَيْدَى أَنَّهُ كَذَا مَحَادِثَةً لَمْ يُسْقِ أَهْلَ الأَمِيْنِ المَتَّبِعَةُ فِيهَا كِلَامٌ، وَأَن يَعْرَفُ أَسْبَابَ الْبَيْنَ، فَالْحَذَّرُهَا بَيْنَ مَثَلٍ إِلَى فِيَمُ الْمَرَادِ، وَلَسْنَ فِيهِ مَوْافِقَةٍ، مَسْتَعِبٌ وَتَقَيَّرُ السَّبَكُي كَافٌِ لَكِ لَبِّ، وَيُبَيِّنُ أنْ يَكُتُبُ إِلَى ذَلِكَ مَعْرِفَةً
أسباب الحديث، وهو نوع من أنواعه، ممهُّ يُعرف به المُرَاد كأساس النزول، وألف فيه الفصيح أبو يعلى القراء، وأن يُعرف النسخ والنسخُ كي لا يعمال أو يفتح بمسند، وأن يُعرف الأحاديث الصادقة من الصدوقية ليُختلف بالأول ويبطَّر الثاني، ويفرض المُؤتَّر من الأحاديث ليقدّم الأول عند التعارض، ويُعرف هنا الجزاء جزءًا وتعديلًا ليُختلف برواية المقبول عليهم دون المُردود، ويُعرف مراتب الجرح والتعديل ليُخفف من يعمال بحديث في الخلاف والحوار ومن يعمال به في التدّب والكراءة، ويكفي في هذا وما قبله بالكتب المصنفة في ذلك، والرجوع إلى أئمة هذا الشأن لتحديد التصحيح والتصغير.

في هذه الأعصار كما رأى ابن الصلاح وغيره، أو التوقف على معرفة الجرح والتعديل، وهما متعارضان إلا بواسطة، قال: الرجوع في إلى الأئمة كالعربي ومسلم وأحمد والدارقطني وغيرهم أويل.

وقد بين بذلك أن مرتبة الإجتهاد صبَّغ من مثلها عرَّف اذكرا وكثرة الأمور المُشترطة فيها يُبين أن كل أمر منها يُعالج لأن يُصرف في تخصيص الأمر حتى يصير ملطة. في שלה طلخ أو عمر مديد إلا أن منحة الله ويلهة عليه، ولا يُشارك في الإجتهاد معرفة تقريع الفقه لأنها نتيجة الإجتهاد، وله شرط فيه لا إصرار، وفي الإجتهاد أيضاً الكبيرة ولا الخُرافي، وقد تكون قرَّانة الإجتهاد إليه وعَٰٓ.

وفي إشراك العادلة قولان: احدهما لا يشترط لجواب أن يكون للقضيَّة فئة الإجتهاد، ولا الثاني يشترط ليعتمد على قولٍ، فلا خلاف في المقصى لأنها شرط لفصل قوله لا لحصول وصف الإجتهاد، وذلك أمر منفِّق عليه، وقال: الزركشي والشيخ: من شروط الإجتهاد البحث عن المعارض، فبحث في العام هل له مخصص، وفي المتعلق هل له مقيق، وفي النص هل له ناسخ، وعلى النقطة هل معه قرينة تصرفه عن طارئ إلى أن يغلب على الطريق، وجود ذلك، فيه يعطيه اعتقاده أو عدمه، فيعمل بما يقضيه طارئ النقطة، وقال: لا ينافي هذا ما نعلم من جواز التمسك بالعلم قبل البحث عن المخصص لأن ذلك في جواز التماس بالجرد عن القرار، وأكلامنا هنا في إشراك معرفة المعارض بعد تعلى كونه معارضاً، وقال الشيخ خلال الدين المذكور: هنا على سبيل الأولويَّة ليس الهم ما يستبطن ين تطُّور الحقّ إلى للبحث لا على سبيل الوجوب، ثم قال: عبد الرحمن السُّيّوري: "وهذه الأمور المُتقدمة شرط في المجتهد المطلق، وقد فقد الآن".

ليس منصوصاً عليه لإمامه بأصوله، ثم يتخذ نصوص إمامه أصولاً يستنبط منها كفعال المتنقل
بنصوص الشرع رمزاً أكثرا في الحكمة لدليل إمامه، ولا يبحث عن معارضي كفعل المتنقل بالنصوص،
وهذه صفة أصحاب الوجوه، إنهن.
ثم قال عبد الرحمن السيوطي: "دوّنوه في المرتبة [3] ماجتهد المتفقين يعني ماجتهد الترجيح"
قال في جمع الجواهرين: وهو المستخرج في مذهب المتنقل من ترجيح قول على آخر، وقال في شرح
المذهب: "هو من لا يبلغ رتبة الوجوه لكونه نفس حافظ مذهب إمامه عرفت بأدلةه قائمت بتعريها"
وهذه صفه كثير من المتأخرين إلى أواخر المائة الرابعة، ولم يذكر في جمع الجواهرين مرتبة بعد ذلك
وقد ذكر في شرح المذهب مرتبة رابعة يعني مرتبة العالم وهي: أن يكون يحفظ المذهب ونظله وفهمه
في الواضحة والمشكلات، ولكن عدده صغر في تقرير أدلته وتحريه أسفيه، فذاته يعتمد قلبه وقوته
فيما يحكمه من مستلزمات مذهبه، وما لا يجد من فلوقاً إن وجد في المنقول معناه بحيث يدرك منه بغير
كبير فكر، أنه لا فرق بينهما جار إلحاقه به والمقترحوه، وكذلك يجب إمساكه عن الفنوى فيها لأنه يبعد
كما قال أمير المؤمنين إمام الحرمين: أن نقع مسألة لم ينص عليها في المذهب ولا هي في المعنى
المنصوص ولا مدرجة تحت ضابط، وسرعته لكونه نفس دا حظ وافر من الفن، وصاحب هذه
المرتبة ليس من الإجتهاد في شيء، إنه ما في شرح الكوكب ملحمًا.
وقال أحمد الزروق في عدده المريد الصادق بعد إبراده قوله تعالى: "قل هذه سبيلي أدعو إلى
الله على بصيرته أنا ومن اتبعوني"، فتبعين أن التبصرون في الذين أصلل من أصوله، وأن من أخذ الأمور
من رأي في عمارة قلنس بمتبع للشريع، لكن الناس ثلاثة يعني بعد الماجهدين: [1] عالم متمكن في
تخصره في أخذ المسائل بدليل الذيل، وإن لم يكن ماجهدا، [2] متوسط في الأمرين العامة والعلما،
فلا يصبح لتبصرون إلا من تبصرون في شأنه وأوجب لعذم من الشرع، وإن هذا معن يفتد البه، ثم لا
يأخذ عنه ما يأتي ما علما من قواعد الشريع إذا لا يجوز لأخذ أن يتعدى علمه، "ولا تقدف ما ليس
لك به علم" [3] وعاصي وجهاً أن يقف مع ما لا يشكي في حقه من حفظ الله وذكره وعمل على
الجادة التي لا يشكي فيها واللا فهو مستذن ببينه ومتلاصع به فأعلم إنهن.

Institute of Islamic-African Studies International
المسألة الثانية

في تحقيق الإمام الظاهر والباطن

فأقول: ويا الله التوفيق، أعلمن أن الإمام الظاهر الذي يستحق به الهدى جريان أحكام الإسلام عليه الإقرار فقط، وقد أقنع علماء السنة رضي الله تعالى عليهم أن من أقر بلا إله إلا الله محمد رسول الله صل الله عليه وسلم أجرته عليه الأحكام الإسلامية.

قال: عبد السلام بن إبراهيم الكافئ في إكسا沃 المريد بجواهرة التوحيد: فالأئمة الكافئ في الدين هو الإقرار فقط، فمن أقر أجريت عليه الأحكام الإسلامية في الدين، ولم يحكم عليه بكفر إلا إذا أقرن به قيد يدل على كفر كالسجود للصمم، فهو تصديق ما علم مجيء الرسول صلى الله عليه وسلم، وقد أقنع علماء السنة رضي الله عليهم أن هذا الإمام الباطن الذي يستحق به العين دخول الجنة متعلقاً بما علم مجيء الرسول صلى الله عليه وسلم، ولا بما علم مجيئه به نظر كالأجتهادات.

فإن ذلك كله غير داخلة في مسمى الإمام، وهذا لا يكفر من خبر الأحاديث ومنكر الإجتهادات، وفي شرح الوقوف للقصيد قد أجمعت الأمة على أن إنكار الأحاديث ليس كفرًا، إنما.

وقال العيني في شرح البخاري: لا يكفر منكر الإجتهادات بالإجماع، قال أحمد بن الحجر الفيائي في الفتح المبين شرح الأربعين النورية: الإمام لنا مطلق التصديق، وشرعًا التصديق بكلٍ فقط، وإذاعته لما علم بالضرورة أن من دين محمد صلى الله عليه وسلم، فيجب التصديق بكل ما جاء به من إعتقاد، وهو ما قدص منه إعتقاداً أو عرضاً، وهو ما قدص منه العمل، ومعنى التصديق به إعتقاد أن حق وصدق كما أخبر به صل الله عليه وسلم: وتداول هذه كثيرة جداً إذا هي خاصة ما في الكتب الكافئي ودوارئ السنة، فاكتفى بإجمال، وهو أن يقر بلا إله إلا الله محمد رسول الله إقراراً مطابقاً لقلبه وإستسلامه: وأنما التقاليد هذه فما لا خطأ منها بضرورة بأن جدية جاذبة إلى تعلمه وجه الإمام عليه تفصيلاً، إنتمي.
المسألة الثالثة

في تحقيق مصلحة العلماء في الدين، فليحقق العديد والفقه والتصرف.

أقول، وأيضاً، فإن العلم التجويد علم التصرف وعلم التوجيه لا يكون حكماً في الدين أصلاً، وإنما يكون حكماً في الأحياء. فإن العلم الفقه هو الذي يحكم بأمور الدنيا، ومالأ ذلك كله.

قال الغزالي في الأحياء: يظهر في أربع أمور في كلمة الشهادة، والصلاة والزكاة وباب الخالص والحرام، فأما كلمة الشهادة فالثقة يحكم بصحبة الإسلام بمجرد إقرارها تحت طالب السئوف مع أنه يعلم أن السيف لم يكشف له شاها ولم يرفع عليه قلب عشارة الجهل، وهذه الكلمة بالذات تعني رقية وجلالة ما دامت رقيقة وشفاء وذلك في الدنيا، أما في الآخرة فإن تقع فيها الأحوال، بل بأن حرق الظلم واسرارها وأخلاقها، وليس ذلك من فن الفقه بل من أصول الدين والفروع الباطنة أو تعريض الفقه في كل حالات عالمية.

كن عاملاً في جميع صلائبه من أولها إلى آخرها فما فعله حصل به إسهام صالوب في الأمر واقتطع عنه القتل. وأما الخشوع وحصار القلب الذي هو عمل الآخرة، وله ينفع العمل الظاهر، فلا يفعض له الفقه لأنه من الفروع الباطنة، ولم تعريض لذلك الفقه كان خارجاً عن فقه، وأما الزكاة فالثقة يطلبنه فيها ما يفظح طباعة السفن حتى أن صاحب الفعل إذا تعَّض من أذائه فأخذها السلطان عليه فهذا حكم الفقه بأنه يراه ومنه. وقد حكي أن أبا يوسف كان يذهب ماله لزوجته في آخر الحياة ويشير له إسهام الزكاة، فكأن ذلك لأبي حديثه فقال: إن ذلك من فقه الدنيا ولكن مسرفة في الآخرة. أما الخالص والحرام فإنوام عن الحرام من الدين ولكن الوضع له أربع مراتاب، الأول الوضع الذي يشترط في عدالة الشهادة وهو الذي يخبر به الإنسان عن مصيبته الشهادة والفضاء والويلية، وهو الإختصار عن الحرام الظاهر، الثانية ورح الصالحين وهو الوثوق عن الشراب ورح الصناديق عن عام سؤال الله سبحانه خوفاً من صرف سنة من العالم إلى ما يعبده زادة قرب من عند الله.

عُر وجز، وإن كان يعلم ويحقق أنه لا يقصي إلى الحرام. هذه درجات ورح الشهود والفضاء، وما يفتح في المعاذة والشهود القيام بذلك لا ينبغي الإهم في الآخرة، إنه كلام مختصر.

قلت: ومثل ذلك أيضاً كما قال في الأحياء أيضاً في مصلح أمري الشهادة في فعل الحُصومات وسياسات السلطة ومثل أحكام الحُدود والجراحات والفرائض.
المسألة الرابعة

في تحقيق ما هو من فُروض الأغياة وما هو من فُروض الكفاية من تلك العلوم
فأقول: وبيان القيمة: أعلمنا أن فن التزوج ينتم إلى قسمن: أصول الدين وجمل الكلام، وأصول الدين من فنول الأغياة، وعلم الكلام من فنول الكفاية، قال: عبد الرحمن السيوطي في شرح الكُوكب: "من العلماء من ينشئ أصول الدين علم الكلام لأن نَّه أول كلمة وقعت فيها مسألة الكلام".
ثم قال: وقد قال في جمع الأحوال إلى قسمن: عملي وهو ما يجب إعداد، وعلماء لا عملي وهو ما لا يجب معرفته في الأعاق، وأيما هو من ياوادات العلم، ثم قال: عبد الرحمن السيوطي: "والتحقيق أن النص الثاني لا يشمل أصول الدين، وإيما هو من علم الكلام، والأول إن أفترع به نصب الأيدية العقلية مع حكايته أقول أهل الدعوة والفلسفة، فهو علم الكلام أيضاً.
فأصول الدين إلى يئيه ونبواتها في القرآن العظيم، وأيما هي النبى صل الله عليه وسلم أيضاً في سنته كما نبت ذلك في مراء الطلاب وعمدة العلماء، ومن أرادنا فليزج إلى إلها والمطلوب الواجب فيها على الأمة حصول معاينتها في قلوب بواسطة القرن والحديث، والكلام وجميع أصنافه التي أخذناها المتاخمين لكي يكون من فنول الأغياة على الأمة بل هو من فنول الكفاية، ولذلك قال سيدي الحسن ابن مسعود النويسي في شرح أوسمست في بيان حكم علم الكلام: "هو فنول كفاية من قام به من العلماء في كل قطر أجزأ عن غيره من ذلك قطر النقي، حكى في الامدة: أن علم الكلام مطلة لركب الشهبات وجلد الشكوك، ومن ثم قال غير واحد هو فنول كفاية على أهل كل قطر يشتك الوصول منه إلى غيره.
وأما الفئة فينقيض هو أيضاً إلى قسمن Ouاثات كالصلاة والزكاة والصيام والتحري فنول الأغياة"،
قال الشيخ أبو زيد عبد الرحمن بن عمار الأخصاري زمني لَه تعالى عنهم: أول ما يجب على المكلف تصحيح إيمانه ثم معرفة ما يجعل فيه فنول عليه كأحكام الصلاة والطهارة والصيام وأحكام مثل ما في باب الأضطراب وباب أحكام الدماء وباب الفرض، وغالب ما في تفقه أحكام لأبي بكر بن عاصم الفقيه من فنول الكفايات كما بينه غير واحد من علماء السنة زمني لَه تعالى عنهم.
وأما الصنوف فينقيض هو أيضاً إلى قسمن أول النجيل وهو النظري بالسواء المذمومة مثل النبي والمؤرخ والمؤرخ بالباشر والجد وذكر نجد مابين البيت وما للإفتخار، والأمل واصفية الظن بالمسلمين والنظري بالسواء المذمومة مثل الطريقة والإخلاص والتكوى والصبر والرجل
والثواب والرضي والخُفُوء والرُجَاء، وهذا الْقُسُم من فَروض الأَعْيَان كما قَالَهُ الْغَزْالِيُّ في الْإِحْيَاءَ وَعَلَى الرَّحْمَن السُّبُوطِيٌّ في إِثْمَام الزُّرَاعَة شَرَح الثَّقَاةَ، الْقُسُم الثَّانِي التَّحْقَقُ مِثْلُ مَعْرَفَةٍ أَحْوَالُ المُرْيِدِينَ وُمَقَاماتِ الْأَوْلِيَاء، مَعْرَفَة تَجْلُي الأَفْعَال مِثْلُ مَعْرَفَةُ الأَسْمَاء تَجْلُي الْذَّاتِ، وَهَذَا الْقُسُم من فِروض الْثَّقَاةَ، بْنُ بَعْضِه مُحْصُوصًا بِالأوْلِيَاء بَلَى ذَرَاعٍ، وَقَدْ تَكُلُّفَ بَبِيَان الْقُسُم الْأَوْلِ الْغَزْالِيُّ المُحْسِنِيِّ، وَمَنْ حَذِّوْهُمَا، وَتَكُلُّفَ بَبِيَان الْقُسُم الثَّانِي الشَّاهِدِي رَضِيَ اللهُ تَعَالَى عَنْهُمَا كَما قَالَهُ أَحْمَدُ الْزُّرْوَقُ فِي قُوَاعِدِهِ.
المسألة الخامسة

في تحقيق دائرة الحقّ

فأقولُ وبِاِنْباه الوُسيِّفَ، إنّ دائرة الحقّ هي القوانين الأربعة التي هي قضية العقل، ونص القُرآن ونص الحديث المنقول، وإجماع علماء السنة رضي الله تعالى عليهم، والإعتقادات لا تنفيض إلّا بها، ولذلك قال الشَّيخُ مُحمَّد الطَّاهِرُ بنِ إِبراهيم في مُنظُوم الكُبرى: يثبت بالبراهين العقلية * هذا العلم والقوانين القائمة.

ولذلك قال أحمد بن زكرياء في محلل المُفاهِمة: يثبت على البراءين العقلية * كذلك القوانين السُمعية قال المُنجدوري في شرح هذا الفصل في بيان معنى هذا البيت: يعني إنّ هذا العلم يثبت في فتاية مسألة على الأدلة القائمة، وهذا لأن المطلوب في اعتقادات القُلُوب، فلذلك لا يثبت بأمارات وهو الأدلة القائمة لأنها لا تنفيض إلا طناً، بل إنما يثبت بالبراهين العقلية والقوانين السمعية كالتَّورَان والسنّة المُنقولة، إذا كان كل منهما نصا في مثُوليه كلام الإجماع الفعلي المَنفُول بِوتأري، بخلاف السُّكوتِ أو المَنفُول بالأخْداد.
تمسّاكلة السادسة
في تحقیق دائرة الباطل
فأقول وبالله التوفيق إن دائرة الباطل هي الأصول الباطل التي هي ضد القواطع الأربعة أغني بها مأخیب قضیة العقل ونص القرآن أو نص الحديث المتناثر وإجماع علماء السنة رضی الله تعالى علیهم، فهیه الأمور الباطل لا تحتاج إلى استشهاد بأقوال العلماء إذ لا يختلف إثنان على بطلانها.
المسألة السابعة

في تحقيق دائرة الظن

فأقول وي法则 التوقيع: إن دائرة الظن هي الأمور الطلبية التي هي ظاهراً الآية، ظاهراً الحديث، وحُلُّ الأحاديث وإن كان نصاً، وأراء المُجتهدين التي لم ينعقد إجماعهم عليها، وفي هذه الدائرة يختلف المُجتهدون، ولا يكون واحد منهم حجة على غيره. إذ لكل قائل بِلِلإجتياز الذي هو في الطعن لتفصيل الظن، وكيف يقول له: "أترك طلاق لأهل طلاق"، ولو أطلَّع الطالبة على تحقيق هذه الدائرة لاستنادوا بتركي المنازعة، وترك احتجاج بعضهم على بعض بأقوال المُجتهدين إذ لا يكون قول مُجتهده حجة على قول مُجتهده على الإجماع، والعمليات تثبت بهذه الدائرة كما تثبت دائرة الحق.

قال المُجاورُ في شرح المُحلول: "إن الظن في العمليات كافٍ للإجتياز الصحاية على العمل بخيار الواحد والقياس، وظاهر الكتاب والسنة"، وقال: "إن كانت المنازعة في المسائل التي لا تكون إلا قطعية كالأغلام فالمجاولة لأحد أمرَّين: تحقيق حق وإبطال باطل، وتغليب الظن".
المسألة الثامنة

في تحقيق جملة أقوال العلماء وأحكامها


ولهذا قال خليل ابن إسحاق في أول مختصره مبيناً لما به الفئوية: "وقد المشهور والراجح وعدد وجوب العمل شامل لجميع هذه الأقوال الأربعة كما شمل جواز العمل جميعها، ولهذا لا يذكر من عمل بالشاذ والمرجح، ولذلك قال عز الدين بن عبيد السلام: الإجمال متعلق بما أجمع على إجابه أو تحرمه، فمن ترك ما كتب في وجوبه أو فعل ما أفتمت في تحرمه، فإن قلد بعض العلماء في ذلك فلا إنكار عليه إلا أن يقليد في مسألة يقضي حكمة في مسألة، فإن كان المطلق قليلاً لم يذكر عليه لأنه لم يرتكب محرمًا، فإنه لا يلزمه تقليد من قال بحرموه ولا بالأجابه إجماعاً.

قلت: والمراد بالنفي عن الإجمال الخرافي، ولو أنه كتب إجماع الإجماع، وأمره من النصوص والإرشاد، وذلك نصه وإنسان كما في تلخيص الأخوان وشرح الأربعة النوري للإشباعي، ولا يجوز ذلك أيضًا نقص الحكم الثانئ على الإجتهاد بعد إبراده كما قال العلماء رضي الله تعالى عليهم إلا إذا خالف نص الكتاب ونص السنة أو التفاسير والجماع أو الحكم النلي، فإن بعضه إذا وكن حكماً مجزئاً بخلاف إجتهاده، فإن قلد غيره نقض حكمة لمخالفته، وأمنيته تقليد إجتهاده فيه، وكذا إن حكم حاكم مقلد لبعض الأئمة بخلاف نص الإمام بالكوننة غير مفقوذ غير إمامهم من المجتهدين حيث فلا يجوز لمقلد الإمام تقليد إمام غير إمامه نقض حكمة في هاتين معاً، أما في الصورة الأولى، فاستقلل فيها يبرأه، وأما في الثانية فقليله غير إمامه حيث يمنع تقليده، وفي ذلك مخالفته نص لنص الإمام الذي هو في حقه كالنيل في حق المجتهدين الأئزازهم تقليده، وفهم منه أنه إذا قلد في حكمه لا ينقص لأنه إنما حكم به لرُجُحانه عنده.

قال عبد الرحمن السيوطي في شرح المسائل الإجتهادية: "لا يجوز نقض الحكم فيها إلا من الحاكم نفسه، إذا تغيير إجتهاده، ولا من غيره وفقاً، حكى ابن الصباح: "عليه إجماع الصحابة لا يؤدي إلى أن يستقر حكم أبداً إذ لو جاز نقضه لزار نقض النقض، وهذا لكن يعلم بالأجتهاد في
الثاني ما عدا الأحكام المتميزة على الإجتهاد الأول، فَّمَعَمَّ إن تَبَينَ أنَّهُ خَالِفٌ نصاً أو كِتابًا أو سنّةً أو إجماعاً أو قِياساً حِلْيًا لنَفْصَ الحَكَم، ثَمَّ قَالَ: "وَإِسْتَبْنَى مِن الموُسَأَتِ الإجْتِهَادِيَّة صُورَتْانِ: [1] يَقْضُ
فيها الحَكَم الأول أن يَحُكِّم المُجْتَهِد بِخَلافِ اجْتِهَادِ نَفْسِهِ باِنْقْصَاء، فإِنَّهُ يَقْضُ لِإِمْتَاع تَقْلِيِّدِهِ
فِيَّمَا هُوَ مُجْتَهِدٌ فِيهِ، [2] الثَّانِيَةُ أن يَحُكِّم المُقَلِّد بِخَلافِ نَصِّ إِمامِهِ لِانْتِقَالُهُ في حَقّهِ لِإِلْتِزَامِهِ تَقْلِيِّدِهِ
كَنَّصُ الشَّارِع فِي حَقّ المُجْتَهِد، إِنْتَهِى.
قالَ: وَهَذَا كَلَّهُ إن لم يَقْلِدَ غَيْرَ إِمامِهِ إِذْ لَوْ قَلَّدَهُ فِي حَكْمِهِ لَا يَقْضُ حَكْمَةٌ لِانْتِقَالُهُ إِنْمَا حَكْمُهُ
لِإِلْتِزَامِهِ عَنْهُ كَمَا تَقَدَّمَ.
المسألة التاسعة

في تحقق أن التكاليف العينية قد كتب في زمن الرسول عليه الصلاة وسلام
فأقول، وبอาท الأقوال: أعلم أن النبي صلى الله عليه وسلم قد صرح بكل شيء أمر الله تعالى به أو نهى عنه، ولم يترك من ذلك شيئاً، قال: أبو الوهاب الشعراوي في الرسالة المباركة، قال: عليه الصلاة وسلام: (ما تركت شيئاً يقررك إلى الله تعالى إلا وفد أمرتكم به، وما تركت شيئاً يعذرك إلا وفد نهتمكم عنه)، ومن زعم أن رسول الله صلى الله عليه وسلم ترك التصريح بشيء أمر الله به أو نهي عنه فقط، من الذين، وفي الصحيح أن رسول الله صلى الله عليه وسلم قال لحديثة رضي الله تعالى عنها: (إن التوبة والرسالة قد أقطعتنا، فلا نبي بعدي ولا رسول)، فألقيت زيادة التكاليف الألفية بمؤن رسل الله صلى الله عليه وسلم، واستقرت الشريعة وتبين الرفع وغيره، إنتهى).

وقال أيضاً في الدور المستور في بيان وفائد العلم المهم، وبناءً على علم الفقه، يا أخي إن الله عز وجل لم يتكلف أحداً بالفعل إلا بقدر فهمه، ولم يتكلف أحداً بما فهمه غيره أبداً بالفعل، إنما كلف جميع عباده بما صرحت به الشراعة فقط، ويعني للإنسان أن يعمل بما في الكتاب والسنة صرحاً للاستنباط، إذ جميع ما ستنبئ وليس بشرع معلوم لل تعالى، إنما هو تشريع عبادة، وإذا وقع الخلاف فيه دون الصرف، قال الله تعالى: (ولو كان من عبد غير الله لوجدوا فيه اختلاف كثيراً)، يعني اختلاف أمزجتهم، فالعطاء علمها، إنما هو شرع الله تعالى صرحاً إذ هو العلم الذي يسأل عنه العباد في الآخرين، وجميع ذلك لا حرج فيه، ولا مشقة على أحد في تحصيله، ولا يحتاج في معرفته إلى صرف عمر، وتعطيل أسباب في تحصيله كما هو مشاهد، إنتهى.

قال أيضاً في الرسالة المباركة: وله ترك الناس كلام عبد رسول الله صلى الله عليه وسلم، ولم يعملوا بشيء منه، فلا حرج عليهم في الدنيا والأخرى، وجميع أقوال العلماء لا يخلو من ثلاثة أحوال:

1. إما أن توافق صريح السنة الواردة، فالتماسه للسنة والمجتمع كالحاكي لها،
2. وإما أن تخالف صريح السنة، فتفترق ويتم البدن،
3. وإما أن لا يظهر مواقفها ولا خلافاتها،
فأخص أحوالها الوقف فعليها وتركها سواء إلا أن تكون مائلة إلى اختياب في الدين كالفول بمنع استعمال الحشيش والبلج والسائر ما يخسر ولا يسكر، فالعمل بها حينئذ أرجح ولو لم تصرع الشريعة.
ذلك، فإنهم، وَوَسَعُ عَلَى الأُمَّةِ كَمَا وَسَعَ عَلَيْهِمْ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، وأَعْتِقَدَ أَنَّ الْإِخْوَانَ لَوْ تَقَيَّدُ مَعَ الْوَارِدَةِ صَرِيحًا، فَهُمْ يَحْثُونَهُمْ عَلَى الْأَمَّةِ، وَيَتَّخِذُونَ هَذَا الْأَمَّةَ، لَوْ لَمْ يَتَأَثَّرُوا بِالْأَمَّةِ.
المسألة العاشرة

في تحقق إختلاف الأحكام في الشنيء الواحد إختلاف الوجوه فيه

فأقول: وبأيام الوقائع: إن الشنيء الواحد يمدد ويدبر إختلاف وجوهه، وذلك كثير جدًا، لا يكاد ينحصر في العد، ومثال ذلك ذم الدنيا لقوله تعالى: {وما الحياة الدنيا إلا متع الأغور}، بإعتبار أن لها فتنة يشتعل بها الناس عن الطاعة، ودفنه بقوله عليه الصلاة والسلام: {الدنيا مزرة الأخيرة}، بإعتبار أنها محل الطاعة التي هي وسيلة إلى نعم الجن.

ومدح مخالطة الناس بإعتبار من لا يتصارع بها في الدين، يقول صل الله عليه وسلم: {المؤمن، الذي يغول الناس ويصيب على أذاه خير من المؤمن الذي لا يغول الناس ولا يصيب على أذاه}، رواة البخاري في الأدب وغيره كما قال السيوفي في إتفاق الراية شرح النقابة، ودفنه تلك المخالطة بإعتبار من يتصارع بها في الدين بقوله صلى الله عليه وسلم {لعبة بين عامر، وقد سألته بقوله: ما النجاة؟} {امسك لسانك وليسعك بينك}، رواه الترمذي وعذر كم قال عند الرحم السبطي في إتفاق الراية شرح النقابة.

قال في شرح الكعبة: قال الخطابي: لئن لم يكن في العزلة إلا سلامة من العيب ورؤية المتكرب، الذي لا يقدر على إزالته. كأن ذلك خيراً كثيراً، قال: والعزلة والإختلاف تختلف إختلاف متعلقتينما، فتحل الأبد الواورة في الحكمة على الاجتماع، وأما الاجتماع والإفتراق بالأبدان، فمن عرف الأكفاء بنفسه مما يتعلق بطاعة الأبدة وأمر الدين، وعكنها في عكسه في حق معاشه، ويشترط أن يحافظ على الجماعة والسلام والورد وحقوق المسلمين من العبادة وشهد الحانة ونحو ذلك لأن المطلب إذا هو ترك فصول الصحبة لما في ذلك من شغل أبناء وضيق الوقت عن المهمات، ويجعل الاجتماع بمنزلة الإحتجاج إلى الإغواء والغشاء، فليقتصر منه على ما لا بد منه.

ويظهر مثل ذلك أيضاً بقوله صلى الله عليه وسلم في مدة الأغنياء كما في الصحيحين: {ذهب أهل الذهب بالأخور}، بإعتبار من ينصروه بماله كما أمر الله تعالى به، ودم الأرضي يكونهم مستوفين في دخول الجنة في قوله صلى الله عليه وسلم كما في الصحيحين أيضاً: {يدخل قراء المسلمين قبل أن يغيبهم بماصف يوم وهو خمس سنة}، بإعتبار من لا يصرفون ماله كما أمر الله}.
وَيُظهِر مَثَالٌ أَيْضًا بِقُولِهِ صَلِّي اللهُ عَلَيْهِ وَسَلَّمُ كَمَا رَوَاهُ التَّرْمِيْذُ فی مَذَہَبِ الْفُقَراءَ وَالمُسْتَبِكِينَ:

(َاللَّهُمَّ أَخْبَرْنَا مَسْكِينًا وَأَمِينًا مَسْكِينًا وَأَخْبَرْنَا فِي زِمْرَةِ المُسْتَبِكِينَ)، بِإِعْتِبَارِ الصَّالِحِينَ مَنْهُمْ، وَقُولُهُ
صلِّي اللهُ عَلَيْهِ وَسَلَّمُ كَمَا رَوَاهُ شَهَابُ الْذِّينِ فِي ذِمَّ الْفُقَراءَ: (كَذَٰلِكَ الْفُقَراءُ وَيُكَونُوا كَفَّارًا)، بِإِعْتِبَار
المُفْتَرِكِينَ مَنْهُمْ.

وَيُظهِر مَثَالٌ ذَٰلِكَ أَيْضًا بِقُولِهِ صَلِّي اللهُ عَلَيْهِ وَسَلَّمُ فِي الْعَلَّمِاءَ وَالأَمْرِينَ بِالْمَعْرُوفِ وَالْتَّاهِينِ عَن
المُتَّقِينَ وَالأَخْبَارِ، وَقَدْ قَالَ بَلْ لِلْصَّالِحِينَ مِنَ الْعَلَّمِاءِ فِي الأَخْبَارِ: (َأَهْلُ الرُّسُلِ وَهُمْ)
مَثْخَنُ، وَقَالَ لِلْفُتْحِيِّينَ مَنْهُمْ: (َالرُّسُلُ بَيْنَّاهُمْ لَيْسَ بِجَبَّةٍ الْخَزَنِ فِي جَهَنَّمَةِ)، وَمَدْخُ الْآخِرَينَ بِالْمَعْرُوفِ وَالْتَّاهِينِ عَن
المَتْرُكِ وَالنَّاسِ، وَمَدْخُ الْآخِرَينَ بِالْمَعْرُوفِ وَالْتَّاهِينِ عَن
المُتَّقِينَ (َوَصَلَّى اللهُ وَسَلَّمُ عَلَيْهِمْ ﺪَوْرَاءً ﻓِي ﺔَمْلِكَةِ ﺔَبْرَاءَةِ َوُلْدَيْهِ ﺔُمْرَاءً ﻓِي ﺔَمْلِكَةِ 
وَأَوْلِدَةً ﻓِي ﺔَمْلِكَةِ ﺔُمْرَاءً ﻓِي ﺔَمْلِكَةِ ﺔَبْرَاءَةِ َوُلْدَيْهِ) ﺔُمْرَاءً ﻓِي ﺔَمْلِكَةِ 
وَأَوْلِدَةً ﻓِي ﺔَمْلِكَةِ ﺔُمْرَاءً ﻓِي ﺔَمْلِكَةِ ﺔُمْرَاءً ﻓِي ﺔَمْلِكَةِ ﺔُمْرَاءً ﻓِي ﺔَمْلِكَةِ 
وَأَوْلِدَةً ﻓِي ﺔَمْلِكَةِ ﺔُمْرَاءً ﻓِي ﺔَمْلِكَةِ ﺔُمْرَاءً ﻓِي ﺔَمْلِكَةِ ﺔُمْرَاءً ﻓِي 
وَأَوْلِدَةً ﻓِي ﺔَمْلِكَةِ ﺔُمْرَاءً ﻓِي ﺔَمْلِكَةِ ﺔُمْرَاءً ﻓِي 
وَأَوْلِدَةً ﻓِي ﺔَمْلِكَةِ ﺔُمْرَاءً ﻓِي 
وَأَوْلِدَةً ﻓِي ﺔَمْلِكَةِ ﺔُمْرَاءً ﻓِي 
وَأَوْلِدَةً ﻓِي ﺔَمْلِكَةِ ﺔُمْرَاءً ﻓِي 
وَأَوْلِدَةً ﻓِي 
وَأَوْلِدَةً ﻓِي 
وَأَوْلِدَةً ﻓِي
وَفِيمَا ذَكَرْنَا مِن ذَلِكَ فِي هَذَا التَّأْلِيفِ تَلَبِّيَةً عَلَى مَا لَمْ نَذْكُرْهُ لِمَنْ نُوَّرَ اللهُ قَلْبِهِ إِذْ مَنْ نُوَّرَ اللهُ قَلْبُهُ فَالإِسْتِرَاحَةُ تَكْفِيَهُ، وَهَذَا إِنْ تَهَى كِتَابٌ فَتُحُبَّ الصَّانِئِ لِتَقْلِبُ عَلَوْمِ النَّبِىَّةَ وَالْوَلَّادَةَ، يَحْمِدُ اللهُ وَحْسُنٌ عَبْدُهُ وَكُلُّ مِنْ فِئَةٍ مَّسَانِدُ هَذَا الكِتَابِ مُسَتَّخْضُرًا لِمُعْنَافِيَّةِ صَارِدًا بَصْرَةً فِي الرُّءْسِ، وَلَا يَشْتَبِهُ عَلَيْهِ شَيْءًا مِنْ أَمْوَرِهِ، وَلَا أَعْلَمُ أَحَدًا سَيْقَنِي عَلَى النَّسْجِ عَلَى هَذَا الْمَنْوَلِ، *الْحَمْدُ لِلَّهِ الَّذِي هَذَا لَهُ وَمَا كَتَبْنَا لِنَتَهَى لَوْ لَآ أَنْ هَذَا لَهُمْ، تَمَّتْ*.

اللَّهُمَّ صَلِّ عَلَى سَيِّدِنا مُحَمَّدٍ وَعَلَى آلِ مُحَمَّدٍ صَلَاةُ لَهَا أَهْلُ وَهُوَ لِهَا أَهْلُ

آمِنَ آمِينُ

الحمد

الله
The Opening of the Mental Discerning Faculties

Through the Verification of the Formation of the Sciences of the Outward and the Inward
In the name of Allah the Beneficent the Merciful.

Peace and blessings be upon our master Muhammad, his family and Companions.

Says the poor slave in need of the mercy of his Lord, Uthman ibn Muhammad ibn Uthman, who is famous as Dan Fuduye’, (may Allah engulf him in his mercy Amen). All praises are due to Allah, the Lord of the worlds. Peace and blessings be upon our master Muhammad, the master of the Messengers, all his family and companions. This is the book:

The Opening of the Mental Discerning Faculties
Through the Verification of the Formation of the Sciences of the Outward and the Inward

I have arranged this book into ten issues:
I. On the Reality of the Divisions of the Muslims With Regard to Their Ranks in Insight in the Deen.
II. On the Reality of Outward Iman and Inward Iman.
III. On the Reality of the Proper Place of the Legal Judgement for the Sciences of the Religion which are Tawheed, Fiqh, and Tassawwuf.
IV. On the Reality of What is Fard’l-Ayaan and What is Fard’l-Kifaaya From These Sciences of the Deen.
VI. On the Reality of the Domain of Falsehood.
VII. On the Reality of the Domain of Supposition.
VIII. On the Reality of the Totality of the Teachings of the Scholars and Their Legal Judgement.
IX. On the Reality that All the Individual Responsibilities Were Completed During the Time of the Messenger, (may Allah bless him and grant him peace).
X. On the Reality that the Different Opinions of a Legal Judgement in One Thing is Due to the Difference of the Procedures Concerning It.
Issue One
On the Reality of the Divisions of the Muslims With Regard to Their Ranks in Insight in the Deen

I say: and success in that is with Allah, realize that the division of the Muslims in this Community of Muhammad with regard to their rank in researched insight (tabassara) are six:

[1] the mujtahid of the principles;
[2] the mujtahid of the branches;
[3] the mujtahid of the more weighty opinion;
[4] the scholar (al-`aalim);
[5] the intermediate (al-mutawassit) between the scholar and the common person;

And for each of them there are designated characteristics which distinguish each from the other. This you will be able to examine if Allah ta`ala wills.

The Rank of the Mujtahid

The mujtahids have innumerable qualities. The first of them is maturity (al-buluugh) because the one who is not mature, his intellect and reason will not be completed and perfected until his words are taken into consideration. The second is intellect (al-`aql) because the one without intellect cannot distinguish what reason normally guides him to undertake. The third is that he has self mastery and natural incontestable comprehension of the import and deeper meanings of ideas so that he can have the ability to act according to his own judgement. Otherwise, he will be unable to extract the legal objectives inherent in independent judgement. The fourth is that he be an expert of the intellectual proofs and basic fundamentals so that those responsible people (mukallaf) who adhere to him do not deem it inappropriate to transmit from him. The fifth is that he be at least middling (mutawassit) in knowledge of the instruments of learning like: linguistics (lugha); literary style (al-balaagha); grammar (an-nahwa) from inflection to conjugation; the principles of jurisprudence (usuul'l-fiqh); rhetoric (al-ma`ani); and eloquence (al-bayaan) so that these can be the cornerstone of his legal extractions. As for the principles of jurisprudence, his method of extraction should be known. As for the remainder of the sciences, the objectives of legal research cannot be comprehended except by them, because the legal sources, i.e. the Qur'an and Sunna, are in articulate Arabic language.

The sixth is that he knows what is associated with the legal rulings from the Book of Allah and the Sunna, for these two are the basis of his legal decision. However, it is not a prerequisite to possess knowledge of that in total. Abd'r-Rahmaan as-Sayyuti said, "I have examined the prophetic traditions (ahaadeeth) related to legal judgements - its sound (saheeh), its good (hassan), and its weak (da`eef). And I have arranged these into a book whose chain of authorities (asaaneed) have been omitted. In it is an explanation of the condition of every tradition arranged according to its relevant issues." It is very beneficial in this sense and in it is an explanation that memorization of all these sciences is not a precondition in arriving at legal judgements. Diametrically opposed to this is what as-Subki said, "It is not sufficient for the mujtahid who is middling in the above mentioned sciences to give legal judgements. On the contrary, it is necessary for him to be an expert in them. Along with that, he must have the ability to grasp completely a significant portion of

[a] the fundamentals of the shari`a along with knowing
[b] the grades of the one interpreting."

As-Subki also said, "Independent judgement (ijtihaad) cannot be enacted by anyone claiming to be a mujtahid until he knows [c] the conditions of the consensus (al-ijtima`a) so that he does not encroach upon it by contradicting it in his rulings." Shaykh Waliyuddeen said, "It is not a prerequisite to memorize this knowledge. Rather it is sufficient that he be familiar with it so that any legal decisions (aftaa) passed do not contradict the consensus of opinion (al-'ijma`). This is regardless if his decision
is in conformity with a scholar or whether he considers that the event is new and none of the foregoing people of the region ever discussed such an issue before him." He must know [d] the reason of the descent of revelation (asbaab'n-nuzuul) because acquaintance with this knowledge guides to what is truly intended in the message of the verses. There is no comprehensive book dealing with that. However, the tafeers which have sound chains of transmission is sufficient in that. He must couple to that [e] the knowledge of the reasons of the prophetic traditions (asbaab'l-hadeeth) because this knowledge is also from its type of science. Knowledge of this is very important in arriving at what was intended in the tradition just like the science of asbaab'n-nuzuul. Al-Qaadi Abu Ya`ala al-Farraad composed works dealing with these sciences. He must know [f] the abrogated and abrogating verses (an-naasikh wa'l-mansuukh) in order that he may not act or pass legal decisions with those verses which have been abrogated (mansuukh). He must know [g] the science of prophetic traditions - like knowing the sound (saheeh) from the weak (da`eef) in order to rely upon the former and to avoid the latter. He must know [h] the traditions which are from a successive chain of transmission (mutawaatir) from those which are related by a single transmitter (al-ahad), in order to give priority to the first during disagreements. He must know [i] the condition of the narrators (haal'r-ruwaat), those which are unreliable (jarhan) and those which are reliable (ta`deelan), in order to rely upon those narrators which are accepted (maqbuul) and not upon those which are rejected (marduud).

He must know [j] the grades of the unreliable and the reliable in order to know who acts with the traditions in conditions of permissibility (al-hilla) and prohibition (at-tahreem) and who acts with them in conditions highly recommended (an-nadhb) and reprehensible (al-karaahat). What will suffice in that and in the science before that are those books composed on the subject. One must also refer back to the Imams of that matter in order to insist on the sound (tas'heeh) and the weak (tad`eef) among the traditions in these times, like what was related by Ibn as-Salaah and others so that he may be in conformity with the knowledge of the unreliable and the reliable. These two are almost impossible except by means of others. Therefore, reference should first be made to the Imams; like al-Bukhari, Muslim, Ahmad, ad-Daraqutni, and others.

It is clear from the above that the obtainment of the rank of ijtihaad (independent judgement) is very difficult and its accomplishment is costly due to the many matters which condition it in as much as every matter from it makes it appropriate to expend many years trying to learn it in order to become an expert. This takes extensive years and a long life, except if Allah bestows His favor upon him and makes it easy for him. It is not, however, a prerequisite in the rank of independent judgement to have knowledge of the branches of jurisprudence because this science is the fruit of ijtihaad. If it were a prerequisite, then that would necessitate an endless circle. It is also not a prerequisite in the rank of ijtihaad that he be male nor free born. The degree of ijtihaad has been obtained by women and slaves. However, on the precondition of righteousness (al-`idaala) there are two opinions about that. The first is that it is not a precondition because it is permissible for the corrupt person (faasiq) if he is capable of vigorous ijtihaad. The second opinion is that righteousness is a precondition for ijtihaad because his words will be relied upon by others. There is no disagreement concerning the meaning in both opinions because righteousness is a condition for one's words being accepted not a precondition for obtaining the traits of ijtihaad. That is a matter about which there is unanimous agreement.

Az-Zarkashi and Shaykh Waliyuddeen both said, "The prerequisite for ijtihaad is examination and investigation into possible contradictions. Thus, he should investigate into the general legal judgements (al-`aam) - 'are there designated legal judgements (mukhassas) inherent in them?' In the unrestricted judgements (al-mutlaaq) - 'are there any restricted judgements (muqayyid) inherent in them?' In the legal evidence (an-nass) - 'is there any evidence which abrogates it (naasikh)?' Regarding the expression 'are there any semantic context with it which deverts it from its apparent meaning until one is overcome with doubt concerning the factualness of the apparent expression?' If so
then he should act in accordance with the new judgement. If there are no semantic contexts inherent in the expression, then he should give judgement according to the apparent meaning of the expression. The foregoing does not preclude what is permitted in holding to general legal judgements before searching into designated legal judgements due to the fact that it is permitted to hold to what is free of factual evidence (al-qara‘in). This is preconditioned by the knowledge of any contradictory elements after it has been established as contradictory”. Shaykh Jalaaludeen said; "This here is in accordance with the way of interpretation not by way of necessity in order to surrender what one has derived by means of mere strident opinion without having researched." Ab'dr-Rahmaan as-Sayuuti said, "These matters are the conditions for the the absolute mujtahid. Presently, one who has obtained this rank is rare." He said in his commentary of the al-Muhadhabbi, "Whoever has an imam from among the imams who are followed should assume the task of making stipulations from his own legal roots (usuul) and proofs (adila) without overstepping the bounds of the legal roots and legal principles of his imam." He should be knowledgable of jurisprudence, its legal roots and the proofs of its legal judgement in detail and he should have sound insight (baseer) into the requirements of analogous deduction (aqyisat) and figurative expression (ma‘aani). He should have complete training in deductive reasoning (takhreej) and extraction (istinbaat) by affixing what is not specified for him by his imam in his fundamentals. He then takes the specifications of his imam as the foundation of his legal extractions, like acting autonomously from the provisions of the shari‘a. Perhaps he is content with the proofs of his imam in legal judgements where there is no need to research into the contradictory views (mu‘aarid), like acting autonomously from the texts. This is the characteristics of the adherents of fundamental principles (as‘haab ‘l-wujuuh).

Then Ab'dr-Rahmaan as-Suyuti (and others) said: “This jurists is counted among those who have attained the rank of the mujtahid who passes legal decisions (fatwa) - (meaning the mujtahid of the more weighty opinion). He said in his Jam‘u ‘l-Jawaam‘; "He is the one who is proficient in his madh‘hab and well established in extracting the most weighty opinion from others". He also said in his commentary of the al-Muhdhab: "He is the one who has not attained the rank of the adherents of fundamental principles (as‘haab ‘l-wujuuh), however he is an expert of the self, memorizing the madh‘hab of his Imam, knowledgable of his proofs and he is well established in all its stipulations." These are the discriptions of many of the mujtahids of the latter period up until the last part of the 4th century A.H.. He did not mentioned any ranks after that in the Jam‘u ‘l-Jawaam‘. In the Sharh‘l-Muhdhab, he mentioned a fourth rank (meaning the rank of the scholar), and they are; "He undertakes the preserving of the transmitted proofs and has understanding of those proofs which are clear and problematic (waadhihaat wa mushkilaat). However, he is deficient in determining its proofs (taqreer adilatihi) and recording its deductions (tahreer aqyisatihi). This is because his transmissions and legal decisions are all dependent on what he relates from the rules of his madh‘hab. It is also dependent upon what he does not find transcribed in the text, but he finds its meanings transcribed in the text (inasmuch as it is arrived at without lengthy deliberation). In this case there is no difference between the two. It is permissible for him to hold to it and to pass legal decisions according with it (fatwaa bihi). Likewise it is obligatory for him to refrain from making legal decisions concerning it except if the issue he is examining is isolated from it. As the Imam of the Haramayn said; "This is if an issue has not been stipulated in the madh‘hab, nor is its meaning found in what has been written (mansuus), nor is it subsummed under a general rule (daabit). The precondition for the scholar giving legal decision in such a case is that he be self proficient (faqeeh ‘n-nafs), naturally gifted (dhooa haadh) and being in full command of jurisprudence (waagir mina ‘l-fiqh). The master of this rank, however, does not have the right to make ijtihad." Here ends what has been mentioned in the Sharh‘l-Kawaakib in a condensed fashion.
Ahmed az-Zarruq said in his ‘Umdat’l-Murid as-Saadiq after mentioning the words of Allah ta’ala; "Say: this is My way, I call to Allah by way of insight; I and those who follow me"…this is an explanation that insight through investigation and research (tabassura) in the deen is a firm foundation from among the foundations of the deen. Whoever takes the matters of the deen from his on ignorant opinion (raiyi fi ‘amaaya) is not a follower of the Lawgiver. However, people are three kinds, (meaning after the mujtahids). [1] The scholar (‘aalim) who is well established in his researched insight from taking issues by seeking after the proofs, (that is if he is not a mujtahid). [2] The intermediate (al-mutawassit) between the scholar and the common person. It is not correct to follow him except for the one who has researched insight into his affair (tabassara fi shaanihi). It is also binding upon him to make known from the shari’a that which he is following. Further, one cannot take from him whose knowledge from the fundamental principles of the shari’a is vague (yaabaahu). This is because it is not permissible for anyone to overstep his own knowledge (yata’addaa ‘ilmahu) and do not depend upon one whose knowledge is not known. [3] The common person (‘aamiyun), it is only appropriate for him to stop with that in which there is no doubt concerning its reality (maa laa yashuku fi haqeeqatihi) from the commands of Allah and His remembrance. He should behave earnestly in that which he has no doubt about. If he is not like this, then he is merely one who makes jest and toying in his religion. So realize!"
Issue Two

On the Reality of Outward Iman and Inward Iman

I say and success is from Allah, realize that the outward Iman which entitles the servant to be valued with the judgement of Islam is verbal acknowledgement only (al-iqraar faqat). The scholars of the sunna, may Allah be pleased with them, are unanimously agreed (ittafaqa) upon the fact that whoever verbally attest to Laa ilaha illa Allah Muhammadun rasulullahi, the judgement of Islam applies to him.

Abd's-Salaam ibn Ibrahim al-Laqaani said in his Itihaaf al-Mureed Bi Jawharat't-Tawheed, "The Iman which is sufficient in this world is verbal attestation (al-iqraar) only. For whoever makes the verbal attestation, then the judgement of Islam applies to him (ujriyat `alayhi al-ahkaam 'l-islaamiyya) in this world and no one can judge him as a disbeliever except if there is connected to him some condition which gives evidence of his disbelief, like prostrating to idols for example."

As for inward Iman which entitles the servant to enter Paradise, it is acceptance (tasdeeq) of all that is known that the Messenger came with out of necessity. The scholars of the sunna, may Allah be pleased with them, are unanimously agreed upon the fact that this inward Iman which entitles the servant to enter into Paradise is connected to what is known that the Messenger came with out of necessity, not with what was narrated by a single narrator (warada 'l-ahad) nor by what is known to have come from inquiry (nadhar); like that of independent judgement (al-ijtihaadiyyat). For all of that is outside of what is called Iman, for this reason no one can claim as a disbeliever the one who denies the narrations of a single narrator of traditions (munkiru khabari 'l-ahaad mina 'l-ahaadeeth) nor the one who denies independent judgement (munkiru 'l-ijtihaadiyyaat). It has been mentioned in the commentary upon the al-Waqifa Li'l-Qasdi, "The Umma has unanimously agreed that denying the tradition narrated by a single narrator is not disbelief." Al-'Ayni said in his commentary upon the Saheeh of al-Bukhari, "The denying the legal decisions derived by means of independent judgement is not to be considered disbelief - by consensus of opinion."

Ahmed ibn Hajar al-Haytami said in his al-Fat'h 'l-Mubeen Sharh al-Arba`een of an-Nawawi, "Iman linguistically means unrestricted acceptance (at-tasdeeq). According to the shari`a it means the acceptance of the heart only. It is voluntary compliance to what is known by necessity to be from the deen of Muhammad, may Allah bless him and grant him peace. Acceptance is, therefore, obligatory concerning everything which he came with; whether from beliefs (`itiqaadi) - that is what he intended for us to believe in; or from actions (`amali) - that is what he intended for us to behave with. Acceptance of it (tasdeeq bihi) means belief that it is true and truthful (haqq wa sidq); just as he, may Allah bless him and grant him peace, said it. The detailing of this is very extensive since it includes all that is in the books of scholastic theology (al-kutub-ul-kalaamiyya) and in the publications of the sunna. Therefore, what is sufficient as a summation of what Iman is - is the verbal attestation of Laa ilaha illa Allah Muhammadun rasulullahi with an attestation which is in conformity with the heart and its complete submission to it. As for the detailing of that, for what one's researched insight observes from what it is gathered from study, it is then obligatory to believe in it in detail."
I say and success is with Allah, realize that the judgement of the science of the divine unity (at-tawheed) and the science of spiritual purification (at-tasawwuf) does not originally take place in this world. Its judgement (hukmumma) takes place in the Hereafter - according to the consensus (’ala ’l-ijmaa’). It is the science of jurisprudence (al-fiqh) which has its judgement in the affairs of this world. A conclusive example of this is like what al-Ghazzaali said in his Ihya ‘Uluum ’d-Deen, "This is apparent in four matters: [1] in the saying of the words of the shahaada; [2] the prayer; [3] the zakat; and [4] in the issues of what is permissible (halaal) and what is forbidden (haraam).

As for the the words of the shahaada - jurisprudence (fiqh) judges the soundness of one's Islam by its explicite verbal attestation (bi mujarradi iqraar) beneath the threat of the sword. Although a person realizes that the sword cannot disclose what is dubious (shubhat) in the deen nor remove the veil of ignorance which shrouds the heart. This word pronounced upon the tongue protects one's neck and property in this world as long as one has a neck and property. As for the Hereafter, the verbal pronouncement has no benefit. On the contrary, what will benefit a person are the lights of the heart (anwaar ’l-quluub), its secrets (asraar) and its characteristics (akhlaaq). This is not included among the science of jurisprudence. On the contrary, it is from the foundations of the religion (usuul’d-deen) and the inward branch (fur'u baatina) of the religion. Its judgement falls outside the range of the science of jurisprudence. As for the prayer (as-salaat), jurisprudence judges its soundness when the one praying does it in accordance with its correct form with its outward prerequisites from its beginning to its end, even when one is heedless during the entire prayer. This is because the outcome of one's actions is that it complies with the external form of the command, and as a result killing that person has been suspended. As for as humility (khushu’) and the presence of the heart (ihdaar ’l-qalb), which are the actions of the Hereafter and which brings benefit to outward actions - they are not in anyway subject to the science of jurisprudence because they are apart of the inward branch of the deen. If it is exposed to the science jurisprudence, it will be found to be outside of its judgements. As for the zakat, the science of jurisprudence requires in its judgements what is allotted to meet the demands of the ruler (mutaalabat’s-sultaan); even if the possessor of wealth refused to give the zakat, the ruler can take it by force (akhadhahaa qahran). This falls under the judgement of jurisprudence because in taking it by force the ruler has discharged his responsibility. It has been related that Abu Yusef used to abruptly give his wealth to his wife during the last part of the year. He gave it freely to her as a gift in order to withdraw the obligation of zakat from himself. This was then related to Abu Hanifa who said: "Verily that is his jurisprudential action in this world (fiqhi’d-dunyaa), however it will definitely jeopardize him in the Hereafter."

As for what is permissible (halaal) and forbidden (haraam) - showing devout scrupulousness with regard to what is forbidden is apart of the deen. Devout scrupulousness (al-war’a) has four degrees: [1] devout scrupulousness which is a prerequisite for being a just person for testimony (’adaalati ’s-shahaada). This is what takes a person from the afflictions connected to testimony (shahaada), the judiciary (qudaa) and the government (wilaaya) and it entails guarding oneself from all outward prohibited things. [2] The devout scrupulousness of the righteous (war’a’s-saaliheen) which is showing piety regarding the dubious actions (as-shubuhaaat) which are subject to diverse possibilities. [3] The devout scrupulousness of those fearfully aware (wa’ra’l-mutaqeen) which is avoiding the genuine permissible things (al-halaal’l-mahdi) which may lead him to commit what is forbidden. And [4] the devout scrupulousness of the champions of truth (war’a ’s-siddiqeen) which is avoiding everything which is other than Allah sub’haanahu, out of fear that even a moment will be expended
from his life time which can cause him to lose any increase in nearness to Allah `azza wa jalla - this is even when he knows and is absolutely certain that it will not end up being forbidden. These have their different grades. As for devout scrupulousness in giving testimony, giving judgement and devout scrupulousness which detracts one from being considered just in testimony or in enacting any of these; it will not negate sins in the Hereafter."

I say: Similar to that is what Imam al-Ghazaali also said in another place in his Ihya, "The shahaada is included among the issues of lawsuits (khusuumaat), the politics of governmental authority (siyaasaat 's-sultaniya), the judgement of legal punishments (ahkaam 'l-huduud), and the legal judgement of injuries and wounds (jiraahaat wa quraahaat)."
The Science of Tawheed

I say and success is from Allah, realize that the science of divine unity (fann't-tawheed) is divided into two divisions:

1. the foundations of the religion (usuul'd-deen); and
2. the science of scholastic theology (ilm'l-kalaam).

Usuul'd-deen is apart of the individual obligations (furudl-'ayaan) and the science of scholastic theology (ilm'l-kalaam) is apart of the collective obligations (furudl-kifaaya).

Abd'r-Rahmaan as-Suyuuti said in his commentary of the al-Kawkab, "Among the scholars are those who call the science of usuul'd-deen scholastic theology because the first issue addressed in the science of usuul'd-deen is the issue related to theology (kalaam)." He then said in the Jam'i'l-Jawaami', "This science has been divided into two divisions:

1. applied ('amaliyyun) which is obligatory to believe in (tiqaaduhu); and
2. theoretical ('ilmiiyyun) which is not obligatory regarding beliefs (al-aqaa'id) because it is apart of intellectual training."

Then Abd'r-Rahmaan as-Suyuuti said, "Strictly speaking, the second division is not called usuul 'd-deen. It is named the science of scholastic theology (ilm'l-kalaam). If the first division (usuul 'd-deen) is united with the establishment of rational proofs (nashbu'l-adalaat'l-aqliyyat) along with the elucidating the variants of the teachings of the people of innovation (aqwaal ahli'l-bid'a) and the philosophers - then that is also scholastic theology." If not, then the science of the foundations of the religion (usuul 'd-deen), its divine, its prophetic and its after-life are well established in the Mighty Qur'an. It has also been established by the Prophet, may Allah bless him and grant him peace, in his sunna as we have clearly demonstrated in our books called Mirat 't-Tulaab and Umdat 'l-Ulama. Whoever desires can go back and examine these two books.

The intended science which is obligatory upon the umma in order to attain the aimed at meanings in the hearts is accomplished by means of the Qur'an, the traditions (hadeeth) or by means of spoken proofs. However, all of the technical terminologies which have been invented by modernists and latter day scholars (al-muta'akhiruun) are not included among those sciences which are individually obligatory upon the Umma. On the contrary, these sciences are included among the collective obligations (furudl-kifaaya). It is for this reason that Sidi 'l-Hassan ibn Mas'ud al-Yuusi said in one of his lectures, "It is not a precondition (of the science of usuul 'd-deen) to understand the expressions of beliefs (al-aqaa'id) which have been asserted in the books of the scholars, nor to comprehend its limits or its formalities by which it is known. For understanding these modes of expression (ibaaraat) and the comprehension of these truths (haqaa'iq) and affirmations (taqreeraat) belong to another science all together and is not included among those sciences which the common people are responsible for."

Shaykh as-Sanusi said in his commentary of the al-Wusta, "Regarding the judgement of the science of scholastic theology, it is a collective obligation (fard l-kifaaya). Whoever undertakes this science from among the scholars in every region compensates others from having to do so in their particular region." It has been related in the al-Umdat, "The science of scholastic theology (ilm l-kalaam) is a hypothetical science (madhinna) developed as a refutation of obscure arguments and as an unraveling of doubts. It is for this reason that many of the scholars say that this science is a collective obligation upon the people of every region."
The Science of Fiqh

As for the science of jurisprudence (al-fiqh), it is also divided into two divisions: [1] that related to worship (‘ibaadaat); [2] that related to judgement (ahkaam). The division related to worship is what includes the prayer (as-salaat), zakaat, fasting (as-siyaam), pilgrimage (al-hajj) and others. All of these are individual obligations (furuud ‘l-‘ayaan). Shaykh Abu Zayd Abd'r-Rahmaan ibn `Aamir al-Akhdaari, may Allah be pleased with him said, "The first thing which is obligatory upon the responsible person (al-mukallaft) is to correct his iman, then knowledge of what will authenticate for him his individual obligations; like the judgement of prayer, purification (at-tahaara), and fasting." As for the judgments established in judicial issues (al-aqdiya), the judgement concerning homicides (ahkaam ‘d-dimaa), the legal decisions and most of what has been discussed in the Tuhfat ‘l-Hukaam of Abu Bakr ibn ’Asim al-Qaysi - these are all among the collective obligations (furuud 'l-kifaaya), as has been explained by more than one of the scholars of the sunna, may Allah be pleased with them.

The Science of Tasawwuf

As for the science of spiritual purification (‘ilm ‘t-tasawwuf), it is also divided into two divisions:

[1] The first division is related to the reformation of character (at-takhalluq) and it is the abandoning (at-takhalli) of every blameworthy trait from the heart - like conceit (‘ujb), pride (kibr), unjust anger (ghadab bi’l-baatil), envy (hasad), greed (bukhl), showing off (riya’u), the love of rank (hubb’l-jaah), the love of wealth (hubb’l-maal) in order to boast, false hope (amal), and having an evil opinion of the Muslims (isa’at d-dhann). It also includes the endowment (at-tahalli) of the heart with every praiseworthy characteristic - like repentance (tawba), sincerity (ikhlaas), fearful awareness (taqwa), patience (sabr), doing without (zuhd), reliance (tawakkul), leaving matters over to Allah (tafweed), contentment (ridaa), fear (khawf), and hope (rajaa). This division is apart of the individual obligations (furuud ‘l-‘ayaan) as al-Ghazzaali explained in is Ihya ‘Uluum ‘d-Deen and as Abd ‘r-Rahmaan as-Suyuuti explained in his Itmaam ‘d-Diraaya Sharh an-Niqaaya.

[2] The second division of the science of tasawwuf is related to spiritual certitude (tahaqquq) and includes the knowledge (ma’rifaa) of the spiritual states (ahwaal) of the disciples (murids), the permanant spiritual stations (maqaamaat) of the protected friends (awliyya), the knowledge of the self manifestation (tajalli) of the Acts, the knowledge of the Divine Names and the self manifestation of the Divine Essence (tajalli ad-dhaat). This division is not only among the collective obligations (furuud ‘l-kifaaya), but part of this science is specifically established for the awliyya - without dispute.

The responsibility for explaining the first division related to character formation (takhalluq) fell to men like Imam Abu Hameed al-Ghazzaali and Imam al-MuhaaSibi. Whoever wants to follow this should take them as an example. The responsibility for explaining the second division related to spiritual certitude (tahaqquq) fell to men like Shaykh Abu ’l-Hassan as-Shadhili, may Allah be pleased with him - as Ahmed az-Zarruuq clarified in his Qawaa'id ‘t-Tasawwuf.
Issue Five
On the Reality of the Domain of Truth

I say and success is with Allah, realize that the domain of truth (da'irat 'l-haqq) includes the four conclusive proofs (al-qawaat' u 'l-arba'at) which are:

[1] the judgement of the intellect (qadiyyat 'l-'aql);
[2] the evidence (nass) of the Qur'an;
[3] the evidence of the unbroken tradition (hadeeth mutawaaatira); and
[4] the consensus (ijma`) of the scholars of the sunna.

For the principles of belief (al-i`tiqaadaat) are not established except by means of the these four conclusive proofs. It is for this reason that Shaykh Muhammad at-Taahir ibn Shaykh Ibrahim said in his Mandhuum 'l-Kubra,

"It (the truth) is established by the intellectual proofs (baraahin 'aqliyya) of those who possess knowledge and the conclusive reports (qawaat' i naqliya)."

For the same reason Ahmed ibn Zakariyya said in his Muhaasil 'l-Maqasid,

"It (the truth) is built upon intellectual proofs (baraahin 'aqliyya) and likewise upon the conclusive traditions (qawaat' i sam`iyya)."

Al-Manjuri said in his commentary upon this Muhaasil concerning the meaning of the above mentioned poetic verse, "It means that the establishment of the issues of this science is built upon the conclusive proofs. This is because what is intended in the principles of beliefs is that which is definitive. For this reason it cannot be established by verbal indices (imaaraat) which are mere hypothetical proofs and can only result in uncertainty and assumption. Rather, it is established by means of:

[1] intellectual proofs (al-barraahin 'l-`aqliyyat),
[2] the conclusive traditions (al-qawaat' i 's-sam`iyya) - like the Qur'an, the unbroken sunna (since each of these two gives clear evidence in its objectives),
[3] the report of the consensus transmitted by successive unbroken transmission (al-ijma`u 'l-qawliy 'l-mangqulibi 't-tawaatur), in opposition to what Shaykh as-Sukutiyyi said; and
[4] the reports transmitted by a single transmitter (manquul bi 'l-ahad).
Issue Six
On the Reality of the Domain of Falsehood

I say and success is from Allah, realize that the domain of falsehood (da`ar ar-ra`a`) are the foundations of falsehood which are those principles diametrically opposed to the afore mentioned four conclusive proofs (al-qawaat i l-arba’at). Meaning that it is what contradicts the judgement of the intellect (qadiyyat l-`aql), the evidence of the Qur'an, the evidence of the unbroken successive tradition (hadeeth mutawaatira), and the consensus (al-ijma`a) of the scholars of the sunna, may Allah be pleased with them. This is what embraces all matters of falsehood, therefore there is no need to cite the words of the scholars as evidence since there are no two scholars which disagree concerning the futility of the domain of falsehood.
I say and success is with Allah, realize that the domain of supposition (daa'irat 'd-dhann) is related to the matters of assumption and hypothesis, which are:

1. the external meaning of the verses of the Qur'an;
2. the external meaning of the traditions;
3. the reports of a singular transmitter even when it is evidence; and
4. the opinions of the mujtahids about which the consensus of the scholars have not agreed upon.

It is in this domain that the disagreements of the mujtahids occur. And neither one of them can be a proof against the other. Since every proponent of an independent judgement (ijtihaad) does his utmost to attain his supposition. For how can one mujtahid say to another, "Leave your supposition for my supposition". If the students were to examine the verification of this domain, they would rest and avoid disputation and avoid arguing with proofs against one another utilizing the teachings of the mujtahids - since the doctrine of one mujtahid cannot be used as a proof against another mujtahid according to consensus.

The procedures ('amaliyyaat) of the mujtahids is established by means of the domain of truth (daa'irat 'l-haqq). Al-Manjuuri said in his commentary of the al-Muhassil, "Supposition in procedure is sufficient because of the agreement of the Companions, may Allah be pleased with them, on acting in accordance with the reports of a single narrator (khabar'l-waahid), analytical analogy (al-qiyaas), and the apparent meanings of the Qur'an and the sunna." He also said, "If the debate is about issues which are not conclusive (qat`iyya) - like scholastic theology; then the argument is for one of two matters:

1. the verification of the truth (tahqeeq 'l-haqq); and
2. to invalidate falsehood (ibtal 'l-baatil).

If the debate is about issues which are conclusive and based upon supposition - like jurisprudence; then the debate is for one of three matters:

1. the verification of the truth (tahqeeq 'l-haqq);
2. to invalidate falsehood (ibtal 'l-baatil); and
3. the moderating of supposition and hypothesis."
I say and success is with Allah, realize that the summation of the teachings of the scholars which their consensus has not agreed upon, amounts to four:

1. the well known (al-mash'huur) which most of the proponents hold to;
2. the preferable (raajih) which has the strongest evidence;
3. the unusual (shaadh) which the least of the proponents hold to;
4. the least accepted (majuuh) which has the weakest evidence.

As for the legal judgements (ahkaam) of the scholars, realize that it is not obligatory upon the Umma to follow them. Rather it is permissible (yajuuz) for them to act in accordance with all of them or to single out a legal decision (al-fatwa) to follow when it is based upon what is well known (mash'huur) and preferable (raajih) only. It is not permissible to follow the legal decision which is based upon the unusual (shaadh) and the least preferable (marjuuh) - according to consensus. For this reason Khaleel ibn Ihsaaq said in the beginning of his Mukhtasar explaining what legal decisions are based upon, "They are based upon the well known (mash'huur) and the preferable (raajih). The non-obligation of acting is based upon these four teachings, just as the permissibility of acting is based upon all of them. For this reason there is no objection (laa yunkaru) to one who acts in accordance with an unusual decision (shaadh) or a least preferable one (marjuuh)." About this 'Izzaddeen ibn Abd 's-Salaam said, "Objection (al-inkaar) is connected to what there is agreement concerning its obligation or its prohibition. For whoever neglects doing what there is disagreement about concerning its obligation; or does what there is disagreement about concerning its prohibition - while he is following a scholar in that; there can be no objection against him except when he is following the scholar in an issue whose judgement has been repealed (yunqudu hukmuhi). If the one who was following such an issue was ignorant, there is no objection to him because he did not commit a prohibited act. It is not necessary for him to follow the one who maintains that the act is prohibited, nor to follow the one who says it is obligatory."

I say: What is meant by objection in this context is the prohibited objection, because if it can be objected to - then the proof upon which it depends can also be objected to. Further, if it can be commanded - then that commanding should be done with sincerity and guidance, which is giving good advice and excellent deeds. This was cited in the Talkhees 'l-Ikhwaan and in the commentary of the al-Arba een of an-Nawawi by al-Ishbili. It is also not permissible to withdraw from the legal judgements resulting from independent judgement (jitihaad) after it has been authenticated - (as the scholars, may Allah be pleased have said), - except when the legal decision contravenes the text of the Qur'an, the text of the sunna, the fundamental principles (qawaa'id), the consensus ('ijmaa'i) or evident analogy (qiyaas jalli). Then one should withdraw from it. Likewise, when a magistrate of independent judgement (haakim mujtahid) gives a judgement which contravenes his own independent judgement by him following someone else whose legal judgement has been disregarded due to its contradiction of the above- then in that case it is forbidden to follow his independent judgement. This is the same when a magistrate who is a follower (haakim muqallid) of one of the Imams gives a legal judgement which contradicts the text of his Imam while he is not a follower of other than his Imam among the mujtahideen. Whereas, we say it is permissible for the follower of an Imam whose legal judgement has been repealed to follow other than his Imam in the following two ways:

1. he can approach the issue independently with his own opinion.
2. he can follow other than his Imam wherever it is disallowed for him to follow him.

In that, contravening the text of his Imam, which is his right is like a proof concerning the right of the mujtahid which necessitates him to adhere to. It is understood from this that one can follow a legal
judgement which has not been repealed because he gives legal judgement concerning it due to its preferability.

Abd ’r-Rahmaan ’s-Suyuuti said in his commentary of the al-Masaa’il ’l-Ijtihaadiyya, "It is not permissable to repeal a legal judgement except by the magistrate himself when he changes his independent judgement and no one else. This is in agreement with what Ibn ’s-Sibbaagh related, ‘All of the Companions of Muhammad acted upon this rule because that would lead to legal judgements never becoming consolidated. Since if it were permitted to be repealed, it would also permit the repealing of what has already been repealed, and so on until the very act of independent judgement (ijtihaad) becomes repealed.’ However, the judgements which are not to be acted upon are those legal rules which are not built upon independent judgement. When it is clear that the legal ruling contravenes the text of the Book, the sunna, the consensus (ijmaa`) or evident analogy (qiyaas jalliy), then the ruling is repealed. The exceptions from the issues of independent judgement is in two forms: [1] when a mujtahid repeals the first legal ruling by passing a ruling which contravenes his own independent judgement, due to the fact that he follows another. This ruling is repealed because it is impermissible for him to follow anyone in an issue in which he himself is a mujtahid. [2] When a scholar who is a follower gives a ruling which contravenes his Imam, (this is also repealed), because he is like a proof for the mujtahid."

I say: All of this is valid when the scholar does not follow other than his Imam, since when he follows him in his legal ruling then those legal ruling cannot be repealed. This is because he gives rulings by means of his Imam because of his jurisprudential superiority.
I say and success is from Allah, realize that the Prophet, may Allah bless him and grant him peace, clarified every thing that Allah commanded us to do or prohibited us from doing; and he did not neglect a single thing from that. Abd 'l-Wahaab as-Sha'rani said in his ar-Risaalat al-Mubaarakat, "The Messenger of Allah, may Allah bless him and grant him peace said, 'I have not neglected anything which would draw you close to Allah ta`ala, except that I have commanded you to do it. I have not neglected anything which would make you remote from Him except that I have prohibited you from it.' Whoever claims publically that the Messenger of Allah, may Allah bless him and grant him peace, neglected to declare something which Allah commanded to be done or prohibited from, has renounced himself from the deen. It has been related in the as-Saheeh that the Messenger of Allah, may Allah bless him and grant him peace said to Hudhayfa, may Allah be pleased with him, "Verily prophecy (an-nabuwwa) and messengership (ar-risaalat) has ceased. There will be no Prophet after me and no Messenger after me." Thus, addition to the divine responsibilities has ended with the death of the Messenger of Allah, may Allah bless him and grant him peace, since the shari`a had become consolidated and the obligations (al-fard) and other than that had been clearly explained."

He also said in his ad-Durari 'l-Manthuura fi Bayaan Zubd 'l-Uloom al-Mash'huura, "As for the essence of the science of jurisprudence, realize O brothers that Allah `azza wa jalla has not made anyone responsible for an action except in accordance to his understanding. And He has never made anyone responsible for what others understand. Verily Allah has only made His servants responsible for what is explicitly mentioned in the shari`a. It is incumbent upon humanity to act in accordance with what has been explicitly related in the Book and the Sunna, and it is not incumbent to act by that which has been extracted through legal judgements (istinbaatan). For all extractions by legal judgements are not apart of the infallible shari`a of Allah ta`ala. They are simply the laws laid out by His servants and for that reason there has occurred in them differences of opinion. Allah ta`ala says, "If it were from any other than Allah, they would have found in it many a discrepancy." This is because of the difference in their temperaments and constitutions. What is intended here in this verse is His knowledge because it is the explicit shari`a of Allah ta`ala - since it is this knowledge which the servant will be questioned about in the Hereafter. In gathering and learning this knowledge there is no harm nor hardship for anyone. Neither does he need to expend a life time nor to overcome many obstacles in attaining knowledge of this, as is well known."

He also said in his ar-Risaalat 'l-Mubaarakat, "If humanity were to leave the teachings of every one other than the Messenger of Allah, may Allah bless him and grant him peace, and not act in accordance with anything from them, there would be no harm to him in this world nor the Hereafter. Realize that all the teachings of the scholars are not free of three conditions:

[1] either it is in conformity with the explicit transmitted sunna, (in this case) the religion is the sunna and the mujtahid is like its narrator;

[2] or it is in contradiction to the explicit sunna, thus it should be left alone and the sunna should be followed; or

[3] it is not clear whether it is in conformity or in contradiction to the sunna, (in this case) the best situation is that to ceasing to do it and leaving it becomes equal.

The exception to this is if ideas of the scholar encourages one to take precaution in the deen - like the prohibition of utilizing hashish, narcotics and the remainder of things which anesthetize and intoxicate. In this case acting in accordance with the words of the scholar is more preferable, even when the shari`a has not given an explicit judgement concerning that thing. So understand and make
accomodation for the *Umma*, just as the Messenger of Allah, may Allah bless him and grant him peace, made accomodations for them. Further, you should believe that if humanity were to restrict themselves to what is explicitly promulgated in the *shari`a* and if they were to leave acting by everything which was produced by the scholars - there is no harm to them nor criticism except when it is an issue which there is unanimous consensus about. In that case it becomes forbidden to deviate from it just as it is forbidden to deviate from the whole of the *sunna*. 
Issue Ten

On the Reality that the Different Opinions of a Legal Judgement in One Thing is Due to the Difference of the Perspectives Concerning It

I say and success is with Allah, realize that a single issue can be praiseworthy or blameworthy in accordance with various perspective. Evidence for this is very extensive and we will not exhaust ourselves trying to list all of them.

And example of this is the criticism of this world (dhamma 'd-dunyaa) by the words of Allah ta’ala, "The life of this world is nothing but the enjoyment of vanities." This is with respect to the fact that this world is the place of temptations which preoccupy mankind from obedience to Allah. Then there is the praising of this world (madhu 'd-dunyaa) by the words of the Messenger of Allah , may Allah bless him and grant him peace, "This world is the field of cultivation for the next life." This is with respect to the fact that it is the place of obedience to Allah, which is the means by which one attains the blessings of Paradise.

Another example of this is the praise of mixing with people, with the condition that it does not cause damage to the deen. This is in accordance with the words of the Messenger of Allah, may Allah bless him and grant him peace, when he said, "The believer who mixes with the people and is patient with their insults, is better than the believer who does not mix with the people and is not patient with their insults." This was related by al-Bukhari in the "Book of Courtesy" and other narrators, like what as-Suyuuti mentioned in his Itmaam 'd-Diraayat Sharh 'n-Niaayat. Then there is the criticism of mixing with people with the condition that it leads to one being endangered in his deen. This is in accordance with the words of the Prophet, May Allah bless him and grant him peace, to 'Uqba ibn 'Aamir when he questioned him saying, "What is salvation?" He, may Allah bless him and grant him peace, replied, "It is attained by holding your tongue and by keeping to your home." This was related by at-Tirmidhi and others like what as-Suyuuti mentioned in his Itmaam 'd-Diraayat Sharh 'n-Niaayat. He also said in his commentary of the al-Kawkab, "Al-Khataab said, 'If in keeping away from people keeps one safe from slander and from witnessing indecencies which one is unable to remove - then in it is much good.' He also said, "Keeping apart from people and mixing with people differs in accordance with the different things pertaining to them, however the mentioned proofs which encourage socialization should be followed. As for socialization and being isolated with ones presence - if one realizes his own self sufficiency with what is connected to obedience to the imams and obedience to the commands of the deen with regard to the rights of his livelihood and preserving his deen. Then it is best for him to be self sufficient regarding his livelihood, provided he maintains the rights of the society, giving the greetings, returning the greetings, maintaining the rights of the Muslims - like visiting the sick and accompanying the dead to the grave, and other than that. This is because what is intended by his self sufficiency is to avoid unnecessary companionship for what is in it from preoccupation of the mind, the wasting of time from those things which are truly important, and making socialization an important necessity as living and eating. Thus, he should abstain from socialization to the extent which is necessary.

Another example of this genre is in what the Prophet, may Allah bless him and grant him peace said regarding praising the wealthy as was related in the two Saheeh collection, "The people of wealth have carried away all the rewards". This is with respect to those who expend their money as Allah ta’la has commanded them. The criticism of the wealthy is demonstrated by their being superceded by others in entrance into the Paradise in accordance with the words of the Messenger of Allah, may Allah bless him and grant him peace, related in the two Saheeh collections, "The poor among the Muslims will enter Paradise a half of a day before the wealthy, this (half a day) will be equal to five hundred years." This is with respect to those wealthy who do not expend their wealth as Allah has commanded them.
Another example can be seen in the words of the Messenger of Allah, may Allah bless him and grant him peace, concerning praise of the poor as was related by at-Tirmidhi, "O Allah! make me live destitute, make me die destitute and gather me on the Day of Judgement among the party of the destitute." This is with respect to the righteous among the poor. However, there is the words of the Prophet, may Allah bless him and grant peace, related by Shihabudddeen, which criticizes the poor, "The poor are nearly to being disbelievers." This is with respect to the corrupt ones among them.

Another example can be seen in what was said about the scholars, those who command the good, those who forbid indecency, and those who are generous. It says in many traditions about the righteous among the scholars, "They are the inheritors of the Prophets." It says about the corrupt ones among them, "Some of them are evil scholars." It says in many traditions about the righteous among the Qur'an reciters, "They are the people of Allah and His elite." It says about the corrupt ones among them, "Those who seek to be seen by their recitations will have a valley of sorrow in the Hell Fires." Those who command the good and forbid indecency are praised with respect to them acting in accordance with what they say by the words of Allah ta'ala, "They believe in Allah and the Last Day and they command what is good and forbid what is evil and race in doing good deeds. These are the righteous." However, they are criticized with respect to them not acting in accordance with what they say by the words of Allah ta'ala, "Will you command the people to do righteousness and forget to do it yourselves - while you study the Book? Will you not be reasonable?" The cause of their being criticized is because of their forgetting to do it themselves, not because of their commanding the people to do good. Abd'r-Rahmaan as-Suyuuti says in his at-Takmila in commentary on the above, "The summation of forgetfulness is that it is the causative factor in the posing of the objectionable question." The generous are also praised in the traditions, "Allah will take them by the hands whenever they stumble." This is with respect to the righteous among them who gives for the sake of Allah. However, they are criticized because they will be the first to be entered into the Hell Fires with respect to the corrupt ones among them who give to be seen of men.

The likeness of this is also manifested in showing preference to others with what draws a person near to Allah (eethaar bi'l-qurb); which is considered either reprehensible or the reverse, which foremost. It is highly recommended to show preference to others in the allotments of the self (hudhuudh' n-nafs) as well as in matters of this world. Ibn Abd's-Salaam said: “Giving preference to others should be performed in that which draws a person near to Allah and in giving preference to others with water for purification; but not with concealing the private parts, nor with one’s place in the first row of prayer. This is because the objective of worship is exaltation and esteem for Allah. Thus, whoever shows preference to others in matters of worship actually abandons esteem of Allah.” Al-Khateeb al-Baghdadi said: “Showing preference to others in matters which draw near to Allah is reprehensible. Some people consider it reprehensible for a student, for example, to give preference to another in one’s turn in recitation of the tracks of knowledge. This is because the reading of knowledge and contesting for it is an act of drawing near to Allah.”

Here ends this issue, meaning, how the different opinions of a legal judgement in one thing is due to the difference of the perspectives concerning it is very extensive, thus we have not exhausted ourselves in enumerating all of them. However, I have composed a Fulfulde’ poem dealing with this subject, those who desire to examine the many different judgements which can be drawn from one single issue due to different perspectives, should study that.
In what we have mentioned in this book, however, is an incentive for what we have not mentioned, especially for the one whose heart is illuminated by Allah. Since the one whose heart has been illuminated by Allah, mere indication is sufficient for him. Here ends the book called *Fat'hu 'l-Basaa’ir Li Tahqeeq Wad’i 'l-'Uluum 'l-Bawaatin wa 'l-Dhawaahir* (The Opening of the Mental Discerning Faculties Through the Verification of the Formation of the Sciences of the Outward and the Inward) - with the priase to Allah and the best of His help. Everyone who understands the issues of this book, keeping its meanings in his mind, will become the possessor of piercing insight in the deen and no single issue from the affairs of the deen will be ambiguous to him. I do not know of any person before me who has composed such a unique and unparalleled work in such a manner. "All praises are due to Allah, who has guided us to this and we would not have been guided if Allah had not guided us".

O Allah! send Your blessings upon our master Muhammad, and the family of Muhammad with a blessing which is deserving of You and for which he is deserving.

Amen! Amen!

All praises are due to Allah.