

ABSTRACT

This thesis is an articulate study on the modes of inference in the legal field. Observing the huge legacy left by early and modern jurists on *Uṣūl al-Fiqh*, one would find that the rules promulgated to regulate the operation of *Ijtihad* appears vacillating between certainty and uncertainty. A thorough examination of the criteria set by jurists to determine the accuracy of the legal proofs suggests that every thing appears to have been comprehensively tackled except “*Certainty*”. A lack of an adequate theorization for certainty in the legal field is exactly what has prompted us to venture into this thesis.

This has led us to trace the roots of certainty in *Uṣūl al-Fiqh* as well as in *‘Ilm al-Kalām* (Muslim theology), a matter that has unveiled various trends and sects adopting motley views on the authenticity of proofs. This has also uncovered the divergent and convergent scopes among jurists and theologians while referring to the certainty of the methods of inference.

The thesis examines certainty in almost the entire themes of *Usul al-Fiqh*. Yet, it selected the areas where certainty is conceivable and discarded where only speculation is achievable. The aim is to scrutinize the jurists’ views on ‘*Certainty*’ and how far the criteria set for it are accurate. It clearly differentiates between the various possible levels of certainty and how they can materialize in the genuine enactment of the law.

The thesis has unreservedly examined the criteria set by the jurists to determine the certainty of the legal text. The latter, being the backbone of inference, was subjected to a new study where Context (*Siyāq*) would be the solid platform determining its certainty. In this respect, a new method has been suggested to employ “Context” in order to achieve Certainty from the legal text. The theory of context propounded in this thesis can be effectively used to review the patterns of definitiveness and speculation settled by the classical methods of inference. This would include the elevation of the ‘speculative’ into ‘the definitive’ and the degradation of the latter into the former.

The thesis has also sought to examine certainty at the level of the agreeable sources of Shari ‘ah (*Qur’ān, Sunnah, Ijmā’*, and *Qiyās*). It tried to explain why *Mutawatir* and *Ijma’*, for instance, are widely regarded by the bulk of jurists as the most definitive sources of Shari ‘ah. It reviewed the said views and proposed new dimensions to assess the certainty of the agreeable sources. It even studied the possibility to elevate *Qiyās*, deemed speculative by the bulk of jurists, into a definitive source of Shari ‘ah.

Lastly, the thesis unveils a trend advocating the full certainty of the methods of inference in *Uṣūl al-Fiqh*. It notices that Muslim history never ceased to produce jurists yearning for decisiveness and ‘uniformity of inference’ in the legal field. Yet, the thesis is not trying reviving perished schools of thought nor is it attempting to yield credibility to an unusual view. Through unfolding this trend, we are reconsidering ripe views delivered to unripe audience in a time when ‘speculation’ appears to be the main cause for the inadequacy underlying the modes of inference for many centuries.

Dedication

To my beloved parents who nourished me with the love of knowledge,

To my brothers and sisters,

To my brother **Khalid**, the hero, May Allah bless his soul and dwell him in heaven,

To my wife **Ghalia** and my two pearls, **Aminah** and **Ala'**,

To my brother **Bachir**, the companion in prosperity and duress,

To those roaming in quest of **Certainty** ...

I dedicate this thesis