

**Contravene of Imam Al-Juwayni to Imam Al-Mawardi and its Cause, The Ruling on Fogging the Vessels as a Model for a Comparative Jurisprudence Study**

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**Abstract**

This research dealt with the most important reasons that led to Imam Al-Juwayni's jurisprudential violations of Imam Al-Mawardi, and their jurisprudential affiliation within the Shafi'i school (Khorasanis and Iraqis). In addition what was the political situation at the time, and how were they affected by this situation? We in this research mentioned contravening of the comparative jurisprudence as the model is (The ruling on fogging the vessels in the chapter on purity).

**Keywords:** Jurisprudential Contravene, Imam Al-Mawardi, Imam Al-Juwayni, Khurasanians, Iraqis.

**Introduction**

The differences between human beings are a healthy phenomenon, whether in science or in any other. We particularly mention the forensic sciences. The reason for the difference was the difference in understanding, and the difference in understanding the texts (from the abrogator and abrogated, general and specific, and many others).

The difference may be between the different doctrines of jurisprudence (the higher difference) and the difference may be within the same a single doctrine. Here Imam al-Juwayni contravened Imam al-Mawardi in jurisprudence and legal politics rather, he said it for him by rougher. So we wanted to explain the reason for this difference in terms of jurisprudence, and Allah is the guardian of success.

## **Research plan**

We have explained in this research the reasons for Imam Al-Juwayni's contravenes of Imam Al-Mawardi and the ruling on fogging the vessels as a model. This research has been divided into an introduction, three topics, and a conclusion as follows:

### **1. The first topic: The study literature and its theoretical framework.**

#### **1.1 Introduction**

We talked about the importance of research, and the reasons that led to Imam Al-Juwayni contravening Imam Al-Mawardi.

#### **1.2 Importance of the study**

The importance of the study lies in the following:

1. Highlighting the approach of Imam al-Juwayni in contravening him Imam al-Mawardi.
2. The importance of the Shafi'i schools of jurisprudence which are the Iraqi school and the Khorasani School in the Shafi'i doctrine and the comparison between them.
3. The importance of differing opinions of the Shafi'i doctrine jurists.
4. This research will add something new in the view of the researcher of Islamic jurisprudence, especially Shafi'i jurisprudence.

#### **1.3 Study problem**

This study came to answer the following questions:

1. What did Imam al-Juwayni rely on in his contravening to Imam al-Mawardi?
2. What are the reasons that made Imam al-Juwayni contravene Imam al-Mawardi?
3. Who are the two imams Abu al-Hasan al-Mawardi and Imam Abu al-Ma'ali al-Juwayni, and to which school do they belong to for the Shafi'i doctrine?
4. What are the objections and contravene of Imam al-Juwayni to the ruling on clouding the vessels, in his book Nihayat al-Muttalib by Imam al-Mawardi in his book al-Hawi?

#### **1.4 Study Objectives**

The study seeks to achieve the following objectives:

1. Explanation of Imam al-Juwayni's approach in contravening Imam al-Mawardi.

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2. A statement of the reasons that led to Imam Al-Juwayni's violation of Imam Al-Mawardi.
3. Introduce the two Imams Abu al-Hasan al-Mawardi and Abu al-Ma'ali al-Juwayni, and then introduce the Iraqi and Khorasani schools and their affiliation and the two Imams for Shafi'i doctrine.
4. A statement of the objections and contravening of Al-Juwayni's to Al-Mawardi regarding the ruling on fogging the vessels, in books Nihayat Al Muttalib and Al-Hawi.

### 1.5 Previous studies

The researcher did not find within the limits of his knowledge who singled out this study in the contravenes of Imam al-Juwayni to Imam al-Mawardi through their two books Nihayat Al-Muttalib fi Derayat al-Madhab and Hawi al-Kabir. Accordingly, this study came with something new that previous studies did not address except for some recent studies, including:

1. Objections of Imam Al-Juwayni of Imam Al-Mawardi in the Sultanate Laws, Muhammad Obaid Jassem, and Abd al-Rahman Hamdi Shafi ([Muhammad Jassem & Abd al-Rahman Shafi,20](#) ).
2. Al-Juwayni's weights in his book Nihayat al-Muttalib fi Derayat al-Madhab, a comparative jurisprudential study: the chapter on the purity of water ([Muhammad al-Rashdan, master's thesis 2014](#)).
3. Al-Juwayni's weighting in his book Nihayat Al-Muttalib fi Derayah the Madhhab, chapter of Al-Astaba and Al-Ahdath ([Ahmed Awaysha. Master's Thesis, 2014](#)).
4. Al-Juwayni's weighting in his book Nihayat al-Muttalib fi Derayat al-Madhab, a comparative jurisprudential study: The chapter on the purification of the present ([Rasha al-Zoubi, Master's thesis, 2014](#)).

### 1.6 Study Methodology

The researcher in his study Violation of Imam al-Juwayni to Imam al-Mawardi and its cause, the ruling on fogging the vessels as a model used the following methods:

- **The inductive approach:**Where the researcher extrapolated the causes of jurisprudential violations between the two imams al-Juwayni and al-Mawardi. Moreover, in the applied field, this study will deal with one jurisprudential violation as a model between the two imams and we indicate it.

- **The descriptive and the analytical approach:** A statement of the opinions of the two imams on the causes of jurisprudential violations between them. How does each imam have an opinion? In addition to discussing that opinion.

**The researcher has followed the following procedures:**

1. The researcher collected the scientific material from its original sources, contemporary references, and Internet sites to serve the topic of the study.
2. The Qur'anic verses mentioned in the study are attributed to the Holy Qur'an by mentioning the name of the surah and the verse number.
3. Refer to the original and modern linguistic and idiomatic dictionaries to define the terms mentioned.
4. Making technical indexes that contribute to the service of accessing the contents of the research as follows: Index of sources and references, a general index of topics.

**1.7 The structure of the study**

The nature of the study required an introduction, three topics, and a conclusion, as follows:

1. The first topic: the study literature and its theoretical framework

1.1 Introduction

1.2 The importance of the study

1.3 Study problem

1.4 Objectives of the study

1.5 Previous Studies

1.6 Study Methodology

1.7 Structure of the study

2. The second topic: defining the study terminology and introducing Imams Al-Juwayni and Al-Mawardi and their two books.

2.1 Terminology and limitations of the study.

2.2 Defining contravenes linguistically and idiomatically.

2.3 The Introducing of Imam Al-Mawardi.

2.4 The Introducing of Imam al-Juwayni.

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**2.5** Introducing the two schools, Al-Shafi'in Al-Iraqiya and Al-Khorasaniah, and its most important pioneers.

**2.6** Imam al-Juwayni's approach in his violations of al-Mawardi and the extent of his commitment.

**3.** The third topic: Among the most important jurisprudential violations that Imam Al-Juwayni contravened to Imam Al-Mawardi in the book of purity is the ruling on fogging the vessels.

## **4. Conclusion**

### **4.1 Results**

### **4.2 Recommendations**

## **5. References.**

**2. The second topic: defining the study terminology and introducing Imams Al-Juwayni and Al-Mawardi and their two books.**

### **2.1 Terminology and limitations of the study**

The researcher will explain -Allah willing - in this topic the limits of the study and the meaning of the violation linguistically and idiomatically. Furthermore, introducing the two Imams Al-Mawardi and Al-Juwayni according to their chronological order.

### **2.2 Defining of contravening linguistically and idiomatically**

#### **The contravene in a language**

Contravene is come of disagreement, and in the subject (kha laam faa), Ibn Faris says: "Kha, Laam, and Al-Faa." There are three assets: one of them is that something comes after something that takes its place, the second is a contravene ahead, and the third is change. Different people in such and such, and the people are in disagreement, i.e. they differ. It is the first chapter; each of them puts aside his owner's saying and assesses himself in the place of the one who rejected him (<sup>1</sup>).

In the dear book, the Almighty says: (Do you not see that Allah sends down rain from the sky, and we produce thereby fruits of varying colors? And in the mountains are tracts, white and red of varying shades and [some] extremely black) (<sup>2</sup>).

On the foregoing statement of the meaning in the dictionaries of the Arabic language, the definition closest to the study is: contravening, opposition, and everything that is not equal has differed. In addition to that the disagreement: the violation, a disagreement between the two things: making one against the other, and contravenes is collect the word of contravening.

### **The contravene in terms**

The idiomatic definition often depends on the linguistic definition and may match it, and in this case, the definition of contravening idiomatically does not go beyond the linguistic definition. As in (Al-Misbah al-Munir): “You disagree with the people and they differ if each one goes to the opposite of what the other has gone to and it is against the agreement”<sup>(3)</sup>. The difference is used by the jurists in its linguistic meaning, as well as the dispute<sup>(4)</sup>.

Ibn Aqeel al-Hanbali said: “The dispute has limited going to one of the two extremes of each of the two opponents”<sup>(5)</sup>.

Al-Jurjani defined it as a dispute that takes place between opposing parties to achieve a right or to nullify a falsehood<sup>(6)</sup>.

The chosen definition: Since the jurists relied in defining the contravene on the linguistic definition, and some of them also defined it as disputing, disparate, or against the agreement. Therefore the researcher sees that the definition of disagreement is the difference between two or more opinions regarding a legal ruling or its place.

### **Introducing the two Imams: (Imam Al-Mawardi and Imam Al-Juwayni)**

In this topic, the researcher introduces the two Imams in chronological order.

#### **2.3 The introduction of Imam Al-Mawardi**

Introducing the Imam Al-Mawardi: (His name, birth, nickname, surname, and praise of the people of his era).

**His name:** Abu al-Hasan Ali bin Muhammad bin Muhammad bin Habib al-Basri al-Baghdadi. Al-Basri by birth and upbringing, and al-Baghdadi by his life, his pursuit of knowledge, his teaching, his fame, his work, and his death.

**His nickname:** Is Abu al-Hasan and some said Abu al-Husayn, and the first nickname is the most famous and correct.

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**Birth:** He was born in Basra, in the year three hundred and sixty-four AH (364 AH - 974 AD) (7).

**His fame and nicknames:** His father and it was said some of his grandfathers, used to make and sell rose water, and his family became famous for it. They are called the Mawardi family, in reference to the manufacture or sale of rose water. Ibn Makula said: "As for Al-Mawardi, a group of people is attributed to selling rose water or making it, including Al-Qadi Abu Al-Hassan Ali bin Muhammad bin Habib Al-Mawardi Al-Basri" (8).

**His upbringing and life:** Al-Mawardi was born in Basra to which he is related, and there was his first upbringing. Moreover, it is certain that the Mawardi family was not an Alam family as none of them mentioned it. However, they were keen on teaching their children and this appears from the early Mawardi learning to the jurisprudence at the hands of the jurist (Abu al-Qasim al-Saymari) in Basra, and he was the first to learn from him in Basra. Then he moved to Baghdad and dwelt in (Darb Al-Zafarany), and he took taught jurisprudence belonging to Sheikh Abi Hamid Al-Isfraini in Baghdad, soon we will mention more about his elders and disciples. Al-Mawardi studied the Shafi'i jurisprudence and doctrine, and was an Ash'ari of belief, excelled in science until he became one of those referred to as eminent. He was a memorizer of the Shafi'i doctrine, he's good at it, reached the rank of ijtiḥād, until he became one of the people of faces. Al-Subki said about him in al-Tabaqat: "he was a venerable imam of high rank, with an unwavering hand in the doctrine and complete mastery in all other sciences" (9).

**His Sheikhs and disciples:** In this topic, the researcher will show the Sheikhs of Mawardi and his disciples with a brief introduction of each one of them, instead of making the introduction in the footnotes.

**His Sheikhs:** It was presented that al-Mawardi received knowledge early that was in Basra, then traveled to Baghdad, so he science took a reading and teaching, to its senior scholars, and they are as follows:

**First:** Taking jurisprudence from Abu Al-Qasim Al-Saymari (he is the judge Abdul Wahed bin Al-Hussein bin Muhammad Al-Saymari). He has many works including Al-Eydah fi Mathḥab al-Shafi'i and Kitab al-kifayah. His death was after the year three hundred and eighty-six (386 AH) and buried in Basra (10).

**Second:** Taking jurisprudence from Sheikh Abi Hamid Ahmed Al-Isfrainyi (he is Sheikh Abi Hamid Ahmed bin Abi Taher Muhammad bin Ahmed Al-Isfrainyi) attributed to the Asfarayin. He died in Shawwal in the year four hundred and six (406 AH) and was buried in Baghdad (<sup>11</sup>).

**Third:** Taking the hadith from Abu Bakr Al-Manqari (he is Abu Bakr Al-Manqari Al-Basri, Muhammad bin Uday bin Ali bin Adi bin Zahr, Al-Munqari). He died in Dhul-Hijjah of the year three hundred and eighty-three (383 AH) (<sup>12</sup>).

**Fourth:** Taking the language from Abu Abdullah Muhammad Al-Basri (he is Abu Abdullah Muhammad bin Al Mualla bin Abdullah Al-Asadi Al-Azdi Al-Basri). He is a grammarian, linguist but historical sources did not mention the date of his death (<sup>13</sup>).

**His disciples:** Historical sources tell us that al-Mawardi had a teaching council in Baghdad and Basra was attended by a number of students of knowledge who studied under him. Among the most famous of his disciples were the following:

**First:** Al-Khatib Al-Baghdadi, who is (Al-Hafiz Abu Bakr Ahmed bin Ali bin Thabit bin Ahmed bin Mahdi) author of many works, the most famous of which are (The History of Baghdad). He died on Monday the seventh of Dhul-Hijjah, year four hundred and sixty-three (463 AH) in Baghdad, and was buried Gate War (<sup>14</sup>).

**Second:** Rokn Al-Islam, who is (Professor Abu Saeed Abdul Wahed bin Abdul Karim bin Hawazen bin Abdul Malik bin Talha bin Professor Abi Al-Qasim Al-Qushairi, Al-Naysaburi) a trustworthy hafiz. He died in the year four hundred and ninety (494 AH)(<sup>15</sup>).

**Third:** Ibn Kadesh al-Akbari, who is (Abu al-Izz Ahmad Ibn Ubaid Allah Ibn Muhammad Ibn Ahmad Ibn Hamdan Ibn Omar Ibn Isa Ibn Ibrahim Ibn Sa`d Ibn Utbah Ibn Farqad al-Salami) and He was not famous for his books. He died in Jumada al-Ula in the year five hundred and twenty-six, (526 AH). ) and he is the last of those who narrated on the authority of al-Mawardi (<sup>16</sup>).

**Fourth:** Al-Halawani, Al-Baghdadi, who is (Abu Bakr Ahmad bin Ali bin Badran bin Ali, the reciter, known as his uncle), has works including Lataif Al-Maarif. He died in the year five hundred seven, (507 AH) and was buried in Baghdad (<sup>17</sup>).

**Fifth:** Al-Fadl Al-Maqri, who is( Abu Al-Fadl Abdul-Malik bin Ibrahim bin Ahmed, known as Al-Maqdisi), was one of the Shafi'ite imams who excelled in calculating the obligations. He died in the month of Ramadan in the year four hundred and eighty-nine (489 AH) and was buried in Baghdad (<sup>18</sup>).



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Moreover, it was mentioned that Al-Mawardi had disciples that we did not mention here, and they are those who took from Imam Al-Maroudi a little of the science of jurisprudence or heard from him in his councils or narrated some of his questions from those who lived in Baghdad in the fifth century AH. Al-Mawardi was famous in a place, enough for students to crowd at his door. If we traced all the names, the list would be long, but we mentioned the most famous disciples in jurisprudence under the authority of the imam.

### **His books and writings**

Al-Mawardi left many books, writings, and letters, in most of the arts in forensic science, and the researcher will mention - Allah willing - the names of the most famous books that have reached us, with a short overview of each book, which is as follows:

**First:** A book on interpretation in which the Noble Qur'an was explained and called: (Jokes and Eyes in Tafsir Noble Qur'an), in which he showed some sayings in agreement with the Mu'tazila.

**Second:** The book (Al-Hawi Al-Kabeer), which is a summary of Shafi'i jurisprudence, is a great book that was praised by the elite and the public, and it is considered one of the references of Shafi'i doctrine.

**Third:** The book (Al-Iqnaa) is a book on the branches in which the Al-Hawi Al-Kabeer was shortened and stripped him of the evidence on the issues in order to facilitate the learners or the novices.

**Fourth:** A book (Proverbs and wisdom), Al-Mawardi has collected in this book proverbs, wisdom, poetry, and news anecdotes.

**Fifthly:** A book on grammar called (The Eyes in Language), mentioned by Yaqut al-Hamawi, but it is missing.

**Sixth:** The book (Signs of prophecy), which is specialized in the science of prophecy with rational evidence only.

**Seventh:** The book (Sultanate rulings), discusses with regard to the system of government, the appointment of the imam and the guardianship of the covenant, the appointment of ministers and governors, and the management of state affairs.

It is narrated that al-Mawardi hid all his books in a place, only one of his personalities could see them. This is fearing that he did not have the sincerest intention in composing them, or that he

sought fame from them. Therefore, (he said to his companion, If my death approaches, put your hand in mine if caught your hand. So my books in such-and-such a place throw it all over the Tigris at night. But if my hand spread out you must publish my books, that person said: When death approached, I put my hand in his, and he spread it, and he did not take my hand, so I knew that it was a sign of acceptance, so his books appeared after him) <sup>(19)</sup>.

**His death:** He died on Tuesday, at the end of Rabi' al-Awwal in the year 450 AH, he was 86 years old and was buried in Bab Harb Cemetery in Baghdad <sup>(20)</sup>.

## 2.4 The introduction of Imam al-Juwayni

Introducing the Imam al-Juwayni: (His name, birth, nickname, surname, and praise of the people of his era).

Abu Al-Ma'ali Abdul-Malik bin Abdullah bin Yusuf bin Abdullah bin Yusuf bin Muhammad bin Hawiyah Al-Ta'i Al-Sanbisi, Al-Juwayni, then Al-Naysaburi. Al-Juwayni by birth, lineage, and upbringing, then Al-Ta'i Al-Sanbisi by lineage, he is of Arab origins from the Sanbis. As Al-Dhahabi narrated in Siyar A'lam Al-Nubala'i: "Ibn Al-Akhram said: I heard Abu Muhammad saying: I am from Sanbis, a tribe of the Arabs"<sup>(21)</sup>.

**Birth:** He was born in (Gwain) <sup>(22)</sup> a village from the works of Nishapur, in the eighteenth of Muharram in the year four hundred and nineteen AH (419 AH - 1029 AD).

**His nickname:** Abu Al-Maali was nicknamed, and he was famous for it, even if he had no son with that name.

**His fame and nicknames:** The Imam used to study the Shafi'i doctrine and gather its paths and principles. He taught and issued fatwas in the Two Holy Mosques until he became their imam for four years, so he was called the Imam of the Two Holy Mosques, and he was famous for it <sup>(23)</sup>.

**His upbringing and life:** Al-Juwayni was born in a house of knowledge, jurisprudence, and literature. His father, Imam (Abdullah bin Yusuf Al-Juwayni), Al-Shafi'i, the jurist of Nishapur, and its scholar is one of its notables. In addition to his uncle (Abu al-Hasan Ali bin Yusuf), a Sufi jurist, was an Ash'ari of belief, and he wrote many books in it: among them (The Nizamiyyah Creed), including his belief, and his knowledge of the arts of philosophy, logic, and the science of controversy and speech. However, many of his followers narrate that he turned

away from all of that. He had hoped that he would die according to the fitra of the old women of Nishapur<sup>(24)</sup>.

**His Sheikhs and disciples:** The researcher in this topic will show the sheikhs of al-Juwayni and his disciples, with a brief introduction for each of them, instead of making the introduction in the footnotes.

**His sheikhs:** Al-Juwayni had a group of sheikhs from whom he took the knowledge and learn and they are as follows:

**First:** He took hadith and learned it at the hands of his father, so he came to all his works, which is: Abi Muhammad Abdullah bin Yusuf bin Abdullah bin Muhammad bin Hawiyah Al-Juwayni), he died in Dhul-Qa'dah, year four hundred and thirty-eight (438 AH)<sup>(25)</sup>.

**Second:** The hadeeth was taken from the narrator: (Imam Abu Bakr Ahmed bin Muhammad bin Ahmed bin Abdullah bin Al-Harith Al-Tamimi Al-Asbahani), and he died in Nishapur on the night of Tuesday the nineteenth of Rabi' Al-Awwal in the year thirty and four hundred (430 AH) and was buried in the cemetery of Shah Hanbar<sup>(26)</sup>.

**Third:** Sunan al-Daraqutni heard from Al-Hafiz Al-Hujjah Al-Imam (Abu Saad Abdul-Rahman bin Al-Hassan bin Ali Al-Naysaburi), he died in the year four hundred and thirty-one (431 AH)<sup>(27)</sup>.

**Fourth:** Taking the Qur'anic readings from the sheikh of the reciters, Al-Khabazi (Abu Abdullah Muhammad bin Ali bin Muhammad Al-Naysaburi), he narrated in (Sahih Al-Bukhari) on the authority of Al-Kashmihani, who has a book (Al-Ibsar), and he died in Ramadan in the year four hundred and forty-nine (449 AH)<sup>(28)</sup>.

**Fifthly:** Taking grammar and Arabic from the grammarian (Abu al-Hasan Ali bin Faddal bin Ali al-Qayrawani al-Majashi'i), he has many works, including: "The Elixir of Gold in the Industry of Literature." It was said that he compiled it at the request of al-Juwayni. He died in Baghdad on Tuesday, the twenty-second of Rabi' al-Awwal, in the year four hundred and seventy-nine (479 AH)<sup>(29)</sup>.

Al-Juwayni heard from other than those we mentioned, among the notable and famous, from the hadith scholars in Khurasan and elsewhere, and that what the researcher mentioned are the most famous of those who took hadith, jurisprudence, grammar, language, and readings from them.

**His disciples:** When Al-Juwayni's fame prevailed, he studied in Al-Haramain and Iraq, and devoted himself to teaching at the Nizamiyah School in Nishapur, for more than thirty years.

Therefore, his disciples increased, and those who took from him, until it is difficult to count them after], or collect them in a document. He (Shirazi) said: “His students spread throughout the cities until most of their scholars were among them, and there is no doubt that it is very difficult to enumerate them.”<sup>(30)</sup>.

However, the researcher will discuss the most famous disciples of Al-Juwayni, who are in the following order:

**First:** Hujjat al-Islam, (Abu Hamid Muhammad ibn Muhammad ibn Ahmad al-Tusi, al-Shafi'i, al-Ghazali) was a scholar and fundamentalist jurist, and he is considered the most famous of those who transmitted jurisprudence from Al-Juwayni. He summarized his book (Nihayat al-Muttalib), died in the year five hundred and five (505 AH), and was buried in the Al-Tayran cemetery <sup>(31)</sup>.

**Second:** (Abu Al-Muzaffar Ahmed bin Muhammad bin Al-Muzaffar Al-Khawafi), the Shafi'i jurist; who excelled in scenes and controversy, and died in the year five hundred (500 AH) in Toos <sup>(32)</sup>.

**Third:** (Al-Kia Al-Harasy), (Abu Al-Hasan Ali bin Muhammad bin Ali Al-Tabari), died on Thursday in Muharram in the year five hundred and fourth (504 AH) in Baghdad and was buried in the soil of Sheikh Al-Shirazi <sup>(33)</sup>.

The Imam's disciples are many, but from those previously mentioned, Imam al-Juwayni said about them: A statement that showed their virtue in him, and he preceded them in transmitting his knowledge. The Imam of the Two Holy Mosques used to describe his students, saying: Al-Ghazali is a flooded sea, and Elica is a piercing lion, and Al-Khawafi is a burning fire <sup>(34)</sup>.

**His books and writings:** Al-Juwayni left many books, literature, and letters, in most of the arts of forensic science, in assets and jurisprudence, speech science, faiths, and language. The world libraries are rich in them, between manuscripts and printed matters. The researcher will mention - Allah willing - the names of the most famous books that have reached us and they are as follows:

**His books on the principles of religion, faith, speech science, and controversy, the most famous of which are:**

Guidance to the bases of evidence in the principles of belief, the comprehensive in the principles of religion, the brilliance of evidence in the bases and beliefs of Ahl al-Sunnah wal-Jamaa'ah, and the systematic belief. All the previous books, in which Al-Juwayni dealt with: issues of

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belief, theology, controversy, the literature of debate, dialogue, responding to opponents, defending the Ash`ari belief, and clarifying its origins and controls.

### **His books on the principles of jurisprudence, the most famous of which are:**

The proof in the principles of jurisprudence, the guidance in the principles of jurisprudence, and the papers in the principles of jurisprudence. In these books, al-Juwayni explained: Usul al-Fiqh, according to the Shafi`is, and what is equivalent to it about the opponents, graded between the beginners, the intermediates, the advanced, or the hard-working, sometimes compared and sometimes refuted, with example and evidence.

### **His books on jurisprudence, the most famous of which are:**

Nihayat Al-Muttalib fi Derayat al- Madhhab, and The chain in knowing the two sayings and the two sides on Shafi`i doctrine, a treatise on jurisprudence, and a debate on ijtiḥad in the qiblah.

### **His books on comparative jurisprudence and the jurisprudence of contravene, the most famous of which are:**

Al-Durrat Al-Madhiya regarding the dispute between the Shafi`is and the Hanafis, Rich Guided by in Disagreement, and the changer of creation in favoring the truth.

### **His books on legitimate politics, the most famous of which are:**

(Ghiyathi, Ghiyath al-Umam fi Iltiyath al-Zulam). The sources have reported that he has other books on some sciences, including a book on the interpretation of the Qur`an, and was disagreed about its author, and it was said that he does not have, rather, it belongs to his father. Al-Juwayni`s name has been confused with the investigators, and he also has a book on psychology, another in hadith, and some poems <sup>(35)</sup>.

**His death:** Historians agree that Al-Juwayni is one of the notables of the fifth century AH and that he lived in the last third of the fifth century AH. It was: (He died on the night of Wednesday, the twenty-fifth of Rabi` al-Akhir in the year four hundred and seventy-eight (478 AH), and was buried in his house, then he was transferred years later to the cemetery of al-Husayn next to his father) <sup>(36)</sup>.

## **2.5 Introducing the Iraqi and Khurasan schools:**

The Shafi`i jurisprudence extended in Dar al-Islam, carried by the companions from generation to generation, until we reached the end of the fourth century and the beginning of the fifth century, so the term: Our Khorasani Companions, and Our Iraqi Companions, followed that was

called the way of the Iraqis, and the way of the Khorasanis, and that this ratio: Iraqi or Khorasani, has nothing to do with race and birth, but this ratio comes from the elders and the reception, and the home of school and apprenticeship, The friend may be of Khorasani origin, race, and birth, but he lived in Iraq and heard the sheikhs of Iraq, then he is an Iraqi. The clearest example of this is Sheikh Abu Hamid Al-Isfaraini, the Sheikh of the Iraqi Order, for he is an Israeli by birth and even upbringing, so he became an Iraqi, rather he is the sheikh of the Iraqis way<sup>(37)</sup>.

The companions of al-Shafi'i who took from him through intermediaries are many, innumerable, but a group of them became famous for deducing rulings from his texts, directing them, and branching out on them, and they were called the Companions of Faces. Among them is Ahmed bin Yasar, and Muhammad bin Nasr Al-Marwazi, who are in the second class, also, Abu Bakr Al-Nisaburi, Abu Saeed Al-Istakhri, Abu Bakr Al-Serafy, Abu Ishaq Al-Marwazi, Al-Qaffal Al-Shashi, and Abu Zaid Al-Marwazi, who are from the third class. as well as, Abu Ishaq Al-Isfaraini, Abu Bakr Al-Nouqani, Abu Asim Al-Abadi, Al-Shalusi, and Abu Khalaf Al-Tabari, who are from the fourth class. Then came the rest of the Companions of Faces, class after class, until Abu Hamid Ahmad al-Faqih, known (al-Isfarayini), who was the head of Shafi'i jurisprudence in Baghdad, came after them. and it was said: Seven hundred faqih attended his lessons.

He was followed by a group of countless numbers, the judge (Abu al-Hasan al-Mawardi), the owner of al-Hawi al-Basri, who died in 450 AH, singled them out for it, Al-Qadi (Abu Al-Tayyib Al-Tabari) the author of "Al-Ta'liqa" in about ten volumes, and it is a lot of inference and analogies, who died in the year (450) AH, and (Abu al-Hasan Muhammad al-Mahamali) the author of "Al-Muqna'a" and they followed his method in writing down the branches, and their method became famous, the way of the Iraqis.

There were two ways of codification in fiqh, the Marawiza (Khorasaniin) method, whose pioneer was Al-Qaffal, who led the Shafi'i leadership in Khurasan, then they were followed by a group, most notably Sheikh al-Juwayni, the father of the Imam Al-Haramain who died in 438 AH, and Abu al-Qasim Abd al-Rahman al-Furani, the author of "Al-Ibanah" who died in 461 AH, And Judge Hussain Al-Marwazi, the author of "Al-Ta'laqa, Al-Asrar" who died 462 AH, then it is settled to Al-Juwayni, the deceased son of 48 AH.

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As for the method of the Iraqis, its pioneer was Abu Hamid al-Isfaraini, the Sheikh of the Shafi'i in Baghdad, and a group followed him, including al-Mawardi, the owner of al-Hawi, who died 450 AH, and Judge Abu al-Tayyib al-Tabarani, author of Mukhtasar al-Muzni, who died 450 AH. <sup>(38)</sup>.

If we had studied the opinions of the jurists of Khorasan, Nishapur, and the Iraqis, and analyzed them in the light of that, we would have found the impact of the environment, and the different tendencies and some of them were tightly bound by the branches narrated on the authority of al-Shafi'i, and some of them were not strict in restriction. Imam Muhyi al-Din al-Nawawi said: (I know that our Iraqi companions transmitted the texts of al-Shafi'i and the rules of his madhhab, and the faces of our companions' predecessors are more reliable and proven than the transmission of the Khorasanis in most cases, and the Khorasanis are often better in disposition, dispersal, and arrangement).

The term "Iraqis" is also used and refers to the Hanafis, and the clearest manifestation of this use is the book of our Imam Al-Shafi'i entitled: (The Differences of the Iraqis): meaning Abu Hanifa and Ibn Abi Laila, it is included in the book of the mother (part seven), also, Al-Kawthari's book entitled: (The Jurisprudence of the People of Iraq and Their Hadiths).

If the term (Iraqis) is said or used in contrast to the Khorasanis, so the meant is the companions from the people of Iraq but if it is used in opposition to the Shafi'i school of thought or others, then it meant is the companions of Abu Hanifa, may God be pleased with him <sup>(39)</sup>.

### **2.6 The reasons for the difference between Imam al-Juwayni and Imam al-Mawardi**

**First:**The age of Imam al-Haramain and the century before and after him was an era of prosperity of doctrines with their struggle between them for survival and existence. This conflict was mostly theoretical, scientific, and objective, sometimes going beyond conflict and sedition, such as the Nisapur sedition that led to the exit of four hundred scientists, including the imam of Al-Haramain, behind which were some Hanafi scholars, belonging to the Mu'tazal doctrine. At that time, the diligence, debates, the formation of doctrines, and the science of disagreement arose were prevalent at that era <sup>(40)</sup>.

**Second:**Imam al-Juwayni's violation of Imam al-Mawardi in politics as well, he criticizes al-Mawardi's book "Al-Ahkam al-Sultaniyya" by al-Mawardi, saying, may God have mercy on

him.:The clarity of our purpose in this does not mean the extension of the saying and complaining to God and then to each distinctive collector of classifications made by the prestigious including the arrangement and classificationnotables conveyed the words of the past skilled and quoting what the predecessors labored about, with a lot of confusion in transport, mixing, exaggeration, and excessive not satisfied with the labeling and classification with only a prudent transport that was not authored and classified in insight that was not characterized by the believers of the knowhow. Rather, this complaint was written in my opinion in a book by some of the later ones, translated with the rulings of the Sultanate, which includes the narration of the schools and the narration of opinions and demands <sup>(41)</sup>.

He was harsh in his sayings about al-Mawardi, then he continued in another place, saying: (Let my poetry how can it be possible to confront the classification of this whose understanding is the limit and the extent of his knowledge, and whoever dares to write books, relying on the slander in the sweetness of his tongue, and his ability to do so by the numerator in his statement. It was not a sublime sea in the sciences that does not shrink or contract and a numbered river that does not bleed or churn. It aimed at what was classified and broke into the abyss and was arbitrary, and I am not, by God, in that)<sup>(42)</sup>.

**Third:**The political situation in which the two Imams lived, it was natural for jurisprudence to be imprinted in the regions of the Islamic state in a color different from other regions, as a result of different customs, traditions, and circumstances, as well as the trips of jurists from one region to another, increased to learn what other jurists have and to benefit from their jurisprudence.

In the middle of the fourth century AH, the Islamic state had been torn into mini-states, and those mini-states were competing in all fields, and the scientific and civilizational aspect was linked to the political aspect. Every country boasts of its scholars, writers, and philosophers <sup>(43)</sup>.

With the presence of all these scholars and the fertility of their era, however, the political rupture that afflicted the state led the scholars to a dead end. So the conflict of sects and opinions began, and debates, contradictions, and violations became common, whose aim was not to reach the truth, but to show dominance and to show off the oppression of the opponent until reaching the point of fabricating hadiths that favored one imam over another, and antagonizing the sultans over the dissenters <sup>(44)</sup>, and the doctrinal fanaticism or sectarian conflict dominated the intellectual movement, then Then settled in the last 20 years of Imam al-Haramain's life from



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days of Sultan (Alp Arslan) and his minister (Nizam al-Mulk) until he wrote a book (Al-Ghayathi fi Al-Imamah), and Al-Ghayathi is one of the nicknames of Nizam Al-Mulk <sup>(45)</sup>.

**Fourth:**Al-Juwayni's personal independence, Imam al-Haramain is one of the independent personalities, who carried out innovation in style and presentation, diligence in style and presentation, and diligence in opinions and sayings, which led him to contradict him sometimes, without deviating from them. He had a unique, conscious, free, and critical personality, and this appears in his authorship, research, and teaching, and he has independent interpretations of jurisprudence and the principles of jurisprudence, in which he disagreed with Imam al-Shafi'i sometimes, and Abu al-Hasan al-Ash'ari at other times, and the judge Abu Bakr al-Baqlani sometimes in many times <sup>(46)</sup>. He, may God have mercy on him, turned to Sufism, and that was based on knowledge and not on tradition <sup>(47)</sup>, and Imam al-Juwayni saw in himself a diligent jurist, to the extent that he objected to his father, and he used to say: "This is a slip of the Sheikh, may God have mercy on him."<sup>(48)</sup>.

**Fifth:**Imam al-Juwayni feels the animosity from his peers, prepares to respond to them, and expects an attack on him. So he says: If it is said: What you mentioned is the invention of a doctrine that the forerunners did not insist upon, we said: here is the art of speech that is accepted by the one who adheres to imitation and is alienated from all the almabahith, or a sailor in the seas of the sciences of Sharia, an adult of all his life to its place, a prayer that is dragged by a patient on its probe, and he is not forced into dilemmas and straits <sup>(49)</sup>. He feels that this doctrine is new and that it is targeted for attack and accusation, he prepares response and defense and presents it.

### 3. Third topic:

#### Ruling on fogging the plates

#### The meaning of fogging linguistically and term:

Language: is tightly gripping the object so that it does not get out of his hand; It is said: I fogged him up <sup>(50)</sup>.

Term: The dub is a piece that is nailed to the pot (<sup>51</sup>), and the fog of the mugs is the one that has been cracked, so a broad bracket of silver has been flattened for him, and the crack is sealed in it (<sup>52</sup>).

### **Dispute Editing**

**First: The jurists agreed** on the prohibition of foggy with gold, whether it is small or large, and the prohibition of foggy with silver for all vessels, lest it drinks on silver, and that fog with silver if it is small and the need for it becomes permissible for use, but the difference in the fog a lot with silver.

**Second: The jurists differed** regarding the fogging of silver on three sayings, and the reason for the difference was the need for fogging the vessels and the lack and abundance in the quantity of fog as follows:

**The first saying:** If a little foggy by silver, it is not disliked to use it, while the much that is not needed, this is forbidden by agreement. This is the saying of (the Hanafis, and Al-Qadi Abu Bakr from the Maliki school, and the narration on the authority of Al-Shafi'i in the old, Hanbalis, and Imam Al-Mawardi).

If the fog by silvering is a lot for a need, then if it is on its top and where it drinks, its use is prohibited, and if it is on its bottom, and other than where it drinks, its use is disliked, and if it is easy for no need, its use is not forbidden and it is disliked (<sup>53</sup>).

### **Evidence**

1. They used analogy: by analogy with the silk-embroidered garment, so its ruling was lighter than silver whose vessels were not exalted for gender, so when the meaning of adornment is still there, and the need arises, then the permissible is apparent (<sup>54</sup>).

As for the vessels that are covered with gold, there is nothing wrong with eating and drinking in them according to Abu Hanifa, which is the saying of Muhammad, and according to Abu Yusuf he hates (aspect), Abu Yusuf's saying that the use of gold is forbidden by the text, and it happened using the bowl, so it is hated (aspect).

2. Evidence that this amount of gold that is on it belongs to him and the lesson is for the subordinate without the belongs it, like the teacher's dress, and Jubbah embroidered with silk, and on this dispute is sitting on the foggy bed, the chair and the saddle, and the bridle of the foggy Qur'an (<sup>55</sup>).

### **Discussing the evidence**

**The violators** objected by saying: the silver is subordinate to it and has become like a dress woven from silk and other things, so it is not agreed, because it is not for anyone to make silver subordinate to others in the permissibility, nor to others to make other than silver subordinate to silver in the prohibition. Then the difference between a dress woven from silk and other things, and a vessel made of silver or silk, is permissible for a gender of people, which is women. So it is permissible for him to pardon his walking with others and utensils of gold and silver and shara did not come to allow anyone did not pardon him with others. (<sup>56</sup>).

**The facilitators' response:** the context of al-Shafi'i's words in the old one indicates that he intended that the same gold and silver from which the vessel was made is not forbidden, that is why jewelry is not forbidden for women, and because al-Shafi'i has retracted this old tradition (<sup>57</sup>).

It is permissible to drink from a silvered vessel, ride on a silvery saddle, sit on a silvered chair, and guard against the place of silver, i.e. he guards its place with the mouth, and it was said with the mouth and the hand in taking and drinking, and in the saddle and the chair the place of sitting. As for the camouflaged one that does not get rid of it, there is nothing wrong with it unanimously because it is consumed, so there is nothing wrong with it (<sup>58</sup>).

And if the fog with gold or silver is a lot, then it is forbidden in any case if it is gold or silver, for a need or something else, and because this is extravagance and vanity, it is more like pure.

3. Evidence: that the news was only mentioned in the bifurcation mug in the place of the fracture, and it is for a need, and the meaning of the need is that the need arises for what he did with it, even if someone else takes its place, and you directly dislike the place of silver by using it; not to be used by (<sup>59</sup>), as for silver, a small amount of it is permissible. Evidence: When Anas narrated, "The bowl of the Messenger of God - may God's prayers and peace be upon him - was broken, and a silver chain was taken for the people." (<sup>60</sup>).

**The significance:** the hadith indicates a clear indication of the permissibility of fogging vessels with silver.

### **Discussing the evidence**

**The violators** objected by saying: It is the evidence for the permissibility of fogging the vessel with silver, and there is no dispute regarding its permissibility. However, they differed on the author of the “silsilah”, so Al-Bayhaqi narrated from some of them that the one who made the chain was “Anas bin Malik” and Ibn Al-Salah was certain of it, and he also said about it, because in Al-Bukhari from the hadith of Asim Al-Ahwal: - With Anas bin Malik, and it had been cracked, so he chained it with silver. Ibn Sirin said: It had a ring of iron in it, so Anas wanted to make in its place a ring of gold or silver, so Abu Talha said to him: “Do not change something that the Messenger of God - may God’s prayers and peace be upon him - made and left it.” This is the wording of Al-Bukhari (<sup>61</sup>).

### **The evidence if it is touched upon the possibility of a hero inferred by it.**

**The facilitators' response:** The pronoun in his statement, so chain it in silver, goes back to the Messenger of God - may God’s prayers and peace be upon him - and it may belong to Anas, as al-Bayhaqi said, except that the last hadith indicates the first, and that the mug did not change from what it was during the time of the Messenger of God - may God’s prayers and peace be upon him (<sup>62</sup>).

There are four types of fog with silver according to Imam al-Mawardi:

- First: That it be a lot, without a need, so using is forbidden because of the ostentation it involves.
- Second: It should be a lot for a need. If it is at its top and where it drinks from, its use is prohibited, and if it is in the lower parts, and other than from where it drinks, its use is disliked.
- Third: It should be small, so its use is permissible, because the Messenger of God - may God’s prayers and peace be upon him - had a bowl in which there were two silver rings, and his sword had a receptacle of silver, and he gave a camel on his body in the year of his pilgrimage to Abu Jahl in his nose a stylus of silver.
- Fourth: It should be easy for no need, so its use is not prohibited, and it is disliked.

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**Infer it by analogy:** the dress embroidered with silk. <sup>(63)</sup>.

As for the few and the abundance in fogging:

Imam Al-Nawawi mentioned in Al-Majmoo' that all of this is due to the few and the abundance, and he mentioned three aspects in that:

- First: It is famous in Iraq's and Khorasan's ways that it is much that absorbs a part of the parts of the whole vessel such as above, below, lip, or urwahor, or something like that, and a few that are below it.
- Second: The reference in the few and abundance to the custom said by tAl-Ruyani and it was narrated by Al-Rafi'i and pointed to his choice, approval, and evidence that what was released did not limit his control to custom such as the arrest in the sale, the score in theft, and the revival of the dead are its counterparts.
- Third: It is the choice of the Imam Al-Haramain and Al-Ghazali and those who follow them, that much of what shines to the beholder at a distance and little that does not shine, and they want is what does not deviate from moderation and habit in its tenderness and harshness. Imam of Al-Haramain denied the first aspect and weakness, then he chose this third, and this one he chose has a weakness, and the chosen to go back to the custom, and famous aspect is also destined and when we doubted the abundance, the origin of permissibility and God knows <sup>(64)</sup>.

As for the limit of much according to the Hanbalis: It is not counted as much, as is customary. and it was said: that he did not absorb one of the sides of the vessel <sup>(65)</sup>.

**The second saying:** It is disliked to use fog with silver, which is the saying (and Abu Yusuf from the Hanafi school, Malik, and narration on the authority of the Shafi'is, and it is the saying of Imam al-Juwayni):

If the need becomes small and there is no need or it grows and it is needed, then all of it is forbidden, so arrogance gathers, the need is eliminated, and the prohibition necessitates due to the appearance of the intention to adorn, utensils overlaid and fog with gold and silver. The well-known method is that if the fog becomes small and the need for it, and the smallness and need combined, it was permissible to use it, and if it was big and there was no need, it was forbidden to use it.

**1. Evidence:** show adornment intent, the presence of the eye, even if it is small and has no need, or it has grown and the need is felt, then there are two aspects: the combination of grown and the absence of need requires prohibition, and smallness with need include permissible, and if there is the smallness and no need, or need and grow (<sup>66</sup>).

The completion of the statement on this issue calls for the clarification of two things that we have shown: (Need, large and small).

As for small and large: The large is what absorbs part of the pot, such as to cover under it, or some aspect of it, which is a mistake, and perhaps say: what shines on the distance of the viewer; It is large, and not so, It is small, and it is condemned to take too little and too much, which is exempt from such street mud if it is few, and it is not exempt if it is many. For an explanation of the meaning of "need", he said it was an ambiguous word, and that the large does not accommodate part of the pot, such as to cover the bottom, or one aspect of it, but rather depending on the size of the pot, the larger and smaller have what shines on in the distance of the view (<sup>67</sup>).

And to the Malikis: On three sayings: the first: permissibility, the second: prohibition, the third: hatred, which is adopted in the doctrine, the owner of the Talents of the Galileesaid: The fog is a pot made of pottery, a stick or something else that broke, and it with threads by gold or silver, like a mirror, a tablet, and so on. Judge Abu Bakr (<sup>68</sup>) chose permissibility, and Malik said in Al-Atabiya (<sup>69</sup>) I do not like him to drink in a foggy vessel and not look in a mirror in which there is a ring, and he is likely to be prohibited and disliked.

Ibn Abd al-Salam (<sup>70</sup>) said, apparently, that it is disliked, and it is what al-Mazari (<sup>71</sup>) attributed to the doctrine, as well as, some of those who spoke about the disagreement said in Al-Ikmaal on the authority of al-Mazari and our doctrine that it is disliked to drink from a foggy vessel, just as he disliked looking at a mirror in which there is a silver ring. Al-Qadi Abd al-Wahhab said (<sup>72</sup>) that it is permissible for us to use fog if it is few, some of our sheikhs said that the reason for mere extravagance does not require prohibition, such as crystal vessels that have a high price also rubies, because their use by us is permissible and not forbidden, but it is disliked for extravagance. End (<sup>73</sup>).

**The third saying:** It is forbidden to use foggy silver for a need or not, which is the saying of Ibn al-Hajib <sup>(74)</sup> from the Maliki school <sup>(75)</sup>, and this saying was mentioned by Imam al-Juwayni under the authority of his father,

The evidence in the prohibition of the use of foggy by how the matter was imposed, is based on the consideration of Ain altbr (gold alloys before goldsmithing), and it is present <sup>(76)</sup>.

**Evidence:** Ismail told us, he said, Malik bin Anas told me, on the authority of Nafi', on the authority of Zaid bin Abdullah bin Omar, on the authority of Abdullah bin Abdul Rahman bin Abi Bakr Al-Siddiq, on the authority of Umm Salamah, the wife of the Prophet, may God's prayers and peace be upon him, that the Messenger of God, may God bless him and grant him peace, said, "He who drinks from a silver vessel is only dragged." In his belly is the Hell-fire"<sup>(77)</sup>

**Significance:** There is no difference between eating and drinking in that. Because the meaning is one, which is the resemblance in that to the arrogant and non-Arabs and haughtiest <sup>(78)</sup>

**It was discussed:** that the need calls for it, and there is no extravagance or arrogance in it, so it resembles a fog from scratch, and what you mentioned was from vessels if they were all of gold and silver and not from a small fog<sup>(79)</sup>.

### **Third: Weighting:**

First: The scholars are unanimously agreed that it is not permissible for a Muslim to drink or eat from vessels of silver and gold utensils with them as well or more severely because it has been mentioned in them like what was mentioned in silver vessels <sup>(80)</sup>

1. Ismail told us, he said, Malik bin Anas told me, on the authority of Nafi', on the authority of Zaid bin Abdullah bin Omar, on the authority of Abdullah bin Abdul Rahman bin Abi Bakr Al-Siddiq, on the authority of Umm Salamah, the wife of the Prophet, may God's prayers and peace be upon him, that the Messenger of God, may God bless him and grant him peace, said: (He who drinks from a silver vessel He is only dragging in his stomach the Hell-fire <sup>(81)</sup>).

2. Abu al-Walid told us, Shu'bah told us on the authority of al-Ash'ath, he said: I heard Muawiyah bin Suwaid bin Muqrin on the authority of al-Bara bin Azib, may God be pleased with him, who said: "The Prophet, may God's prayers and peace be upon him ordered us to do seven things and forbade us to do other seven. He ordered us: to follow the funeral procession. to

visit the sick, to accept invitations, to help the oppressed, to fulfill the oaths, to return the greeting, and to reply to the sneezer: (saying, "May Allah be merciful on you," provided the sneezer says, "All the praises are for Allah,"). He forbade us to use silver utensils and dishes and to wear golden rings, silk (clothes), Dibaj (pure silk cloth), Qissi, and Istabraq (two kinds of silk cloths) <sup>(82)</sup>.

Second: It is forbidden to use the fog of gold, and this is what the public said. As for the silver plate, it has become clear to the researcher that if it is used for a need (and the control of the need refers to custom), it is permissible to use it, but if it is to show off, vanity and extravagance, then that is forbidden, and God knows best.

### **3. Conclusion**

After my study of Imam al-Juwayni's violations of Imam al-Mawardi, and the most important reasons that led to their differences, the most important results reached by the researcher can be mentioned, as follows:

#### **3.1 Results:**

1. The most important reasons that led to the disagreement between the two imams are political before they are doctrinal.
2. The jurisprudential affiliation within the same sect (Khorasanites and Iraqis), led to a doctrinal dispute between the two imams.
3. The different intellectual and jurisprudence between the two imams led to the emergence of disagreement and conflict between them.
4. The political situation in which the two imams lived, led to a doctrinal dispute that was not quite big, compared to the great political dispute.

#### **3.2 Recommendations:**

1. Studying the two Imam's jurisprudential books (Nihayat al-Muttalib and al-Hawi al-Kabeer), and standing on the most important of those differences.
2. Paying attention to the most important causes that led to jurisprudence violations, and studying the political reasons as well.



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3. A study of the two political books of the two Imams (Al-Ghayathi and Al-Ahkam Al-Sultaniyah) to find out the complete reasons that led to Imam Al-Juwayni's violation of Imam Al-Mawardi.

## References

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- 1 Ibn Faris, Ahmed bin Faris, (died 395 AH), A Dictionary of Language Standards, investigated by: Abd al-Salam Haroun, Dar al-Fikr, Beirut, 1st edition I, 1399 A.H. - 1979 A.D., 2/213.
  - 2 Surah Fatir verse 27.
  - 3 Al-Fayoumi, Al-Misbah Al-Munir, 1/178.
  - 4 Ministry of Awqaf and Islamic Affairs, Kuwaiti Fiqh Encyclopedia, Dar Al-Safwa, Egypt, 1st edition, 1427 AH - 2006 AD, 2/291, ed. 2, Ministry of Awqaf Press, Kuwait, Dar Al Salasil, Kuwait.
  - 5 Ibn Aqil, Ali Ibn Aqeel, (d. 513 AH), controversy, Religious Culture Library, Cairo, d.T, d. I, p. 1.
  - 6 Al-Jarjani, Ali bin Muhammad, (d. 816 AH), Definitions, investigation: a group of scholars, Dar al-Kutub al-Ilmiyya, Beirut, 1st edition 1403 AH - 1983 AD, p. 101.
  - 7 Ibn al-Salah, Othman bin Abd al-Rahman, (died 643 AH), Shafi'i jurists, investigations: Muhyi al-Din Ali Najib, Dar al-Bashaer, Beirut, vol.1. 1412 AH - 1992 AD, vol. 2 / p. 636.
  - 8 Ibn Makula, Ali bin Hebat Allah, (d. 475 A.H.), Completeness in Removing Suspicion from Reconciling and Differing in Names, Nicknames and Genealogy, Dar al-Kutub al-Ilmiyya, Beirut, vol. 1, 1411 A.H. - 1990 A.D., 1/477, Al Dhahabi, Muhammad Bin Ahmed, ( Died 748 AH), The History of Islam and the Deaths of Celebrities and Famous People, Dar al-Gharb al-Islami, Beirut, ed. 1, 1423 AH - 2003 AD, vol. 9, p. 751.
  - 9 Al-Subki, Abdel-Wahhab bin Ali, (d. 771 AH), Tabaqat al-Shafi'i al-Kubra, investigation: Mahmoud Muhammad al-Tanahi, Abd al-Fattah Muhammad al-Helou, Dar Hajar for printing, distribution and publishing, Cairo, vol. 2, 1413 AH - 1993 AD, 5/268.
  - 10 Ibn al-Salah, Tabqat al-Shafi'i jurists, 2/575, and see: al-Subki, Tabaqat al-Shafi'i al-Kubra, 3/339, al-Shirazi, Tabaqat al-Fuqaha', p. 125.
  - 11 Al-Safadi, Khalil bin Aybak, (d. 764 AH), Al-Wafi in Deaths, investigated by: Ahmad Al-Arnaout and Turki Mustafa, Heritage Revival House, Beirut, 1st edition, 1420 A.H. - 2000 A.D., 7/234 A. See: Al-Dhahabi, Siyar A'lam Al-Nubala'i, 17/194, Ibn Al-Salah, Tabqat al-

- 
- Shafi'i jurists, 1/377, al-Subki, *Tabaqat al-Shafi'i al-Kubra*, 4/61, al-Khatib al-Baghdadi, *History of Baghdad*, 6/ 20.
- 12 Abu Dawood, Suleiman bin Al-Ash'ath, (died 275 AH), *Questions from Abi Obaid Al-Ujri*, investigated by: Muhammad Ali Qassem Al-Omari, Deanship of Scientific Research Affairs at the Islamic University, Medina, 1st edition, 1403 AH - 1983 AD, 1/78, and see: Al-Dhahabi, *History of Islam*, 8/550, Al-Subki, *Tabaqat al-Shafi'i al-Kubra*, 5/267.
- 13 Al-Hamawi, *Dictionary of Writers = Guidance of the Arab to the Knowledge of the Adib*, 6/2648, see: Al-Khatib Al-Baghdadi, *History of Baghdad*, 10/384, and 12/157, Al-Subki, *Tabaqat Al-Shafi'i Al-Kubra*, 5/267.
- 14 Ibn Asaker, *History of Damascus*, 5/21, Al-Hamawi, *Dictionary of Writers = Guidance of the Arab to the Knowledge of the Adib*, 1/384, Al-Samani, *Al-Ansab*, p. 60, Al-Subki, *Tabaqat al-Shafi'i al-Kubra*, 5/267.
- 15 Ibn al-Najjar, Muhammad bin Mahmoud, (d. 643 AH), *Theil history of Baghdad*, investigation: Mustafa Abdel-Qader Atta, *Dar al-Kutub al-Ilmiyya*, Beirut, ed. 1, 1417 AH - 1997 AD, 1/149, and see: al-Subki, *Tabaqat al-Shafi'i al-Kubra*, 5/ 227, Ibn al-Salah, *Tabaqat al-Shafi'i jurists*, 2/577.
- 16 Ibn Hajar, Ahmad bin Ali, (died 852 AH), *Lisan al-Mizan*, investigation: *The Systematic Encyclopedia*, India, Al-Alamy Foundation for Publications, Beirut, vol. 2, 1390 AH - 1971 AD, 1/218, and see: Al-Dhahabi, *Siyar A'lam Al-Nubala'i*, 19/558, Ibn Al-Jawzi, *Al-Muntazam in the History of Nations and Kings*, 17/273, Al-Dhahabi, *History of Islam*, 36/103, Al-Subki, *Tabaqat al-Shafi'i al-Kubra*, 5/227.
- 17 Al-Dhahabi, *History of Islam*, 11/85, *Siyar A'lam Al-Nubala'i*, 14/298, Al-Subki, *Tabaqat al-Shafi'i al-Kubra*, 6/28, Ibn Hajar, *Lisan al-Mizan*, 1/227.
- 18 Al-Subki, *Tabaqat al-Shafi'i al-Kubra*, 5/162, Al-Safadi, *Al-Wafi*, 19/102, Al-Dhahabi, *History of Islam*, 10/631, Ibn Al-Najjar, *Theil history of Baghdad*, 1/6.
- 19 Ibn Khallikan, *The Deaths of Notables and the News of the Sons of Time*, 3/282, Al-Dhahabi, *History of Islam*, 9/751.
- 20 Ibn Khalkan, Ahmed bin Muhammad bin Ibrahim, t. 1282 AH, *The Deaths of Notables*, *Dar Al-Fikr - Beirut*, vol. 3, p. 284.
- 21 Al-Dhahabi, *Siyar A'lam Al-Nubala'i*, 17/618.

- 22 Previous reference, 18/468.
- 23 Al-Dhahabi, History of Islam, 10/424.
- 24 Ibn Katheer, Ismail bin Omar, (died 774 AH), Tabaqat al-Shafi'i, investigated by: Ahmed Omar Hashem and Muhammad Zeinhom Muhammad Ezzat, Library of Religious Culture, Cairo, d. I, 1413 AH - 1993 AD, 1/467, Al-Sarifini, Ibrahim bin Muhammad, (d. 641 AH), selected from the book Context for the History of Nishapur, achieved by: Khaled Haider, Dar Al-Fikr, Beirut, d. I, 1414 AH - 1993 AD, 1/361, Al-Dhahabi, History of Islam, 10/424, Ibn Khalkan, Deaths of Notables, 3/167, Al-Subki, Tabaqat Al-Shafi'i, 5/165.
- 25 Al-Sarifini, Selected from the Book of Context for the History of Nishapur, 1/3.1, Al-Dhahabi, History of Islam, 10/424, Ibn Khalkan, Wayat Al-A'yan, 3/167, Al-Subki, Tabaqat Al-Shafi'i, 5/165.
- 26 Ibn al-Imad, Abd al-Hayy bin Ahmad, (d. 1098 AH), nuggets of gold in the news of gold, investigation by: Mahmoud Arnaout, Dar Ibn Katheer, Damascus, Beirut, vol. 1, 1406 AH - 1986 AD, 5/150, al-Sarifini, selected from the book Context For the History of Nishapur, 1/93, Al-Dhahabi, Siyar A'lam Al-Nubala'i, 17/553.
- 27 Ibn Makula,: Al-Ikmal, 6/262, Al-Dhahabi, History of Islam, 9/504, Siyar A'lam Al-Nubala'i, 17/509, Al-Subki, Tabaqat al-Shafi'i al-Kubra, 5/171, Ibn Kathir, Tabqat al-Shafi'i, 1/467.
- 28 Al-Dhahabi, Siyar A'lam Al-Nubala'i, 18/44, Al-Subki, Tabaqat al-Shafi'i al-Kubra, 5/171, Ibn Kathir, Tabaqat al-Shafi'i, 1/467.
- 29 Al-Qofti, Alert the narrators to the attention of the grammarians, 2/300, Al-Dhahabi, Siyar A'lam Al-Nubala'i, 18/528, Al-Subki, Tabaqat al-Shafi'i al-Kubra, 5/171, Ibn Kathir, Tabqat al-Shafi'i, 1/467.
- 30 Shirazi, Tabaqat al-Fuqaha, p. 15.
- 31 Ibn al-Mulqin, Omar bin Ali, (died 804 AH), The Doctrine of the Faith in Layers of the Doctrine Campaign, Investigation: Ayman Nasr al-Azhari and Sayed Muhanna, Dar al-Kutub al-Ilmiyya, Beirut, 1, 1417 AH - 1997 CE, 1/116, al-Subki, Tabaqat al-Shafi'i Al-Kubra, 6/191, Al-Dhahabi, Siyar A'lam Al-Nubala'i, 19/322, Ibn Kathir, Tabaqat Al-Shafi'i, 1/533.
- 32 Bamakhrama, Al-Tayyib bin Abdullah, (died 947 AH), The Necklace of Sacrifice in the Deaths of Notables of Eternity, entrusted with it: Boujmaa Makri and Khalidi Zouari, Dar

- 
- Al-Minhaj, Jeddah, i. /96, Al-Dhahabi, History of Islam, 10/823, Al-Subki, Tabaqat Al-Shafi'i Al-Kubra, 6/63, Al-Samani, Al-Ansab, 5/220.
- 33 Ibn Khallikan, The Deaths of Notables, 2/286, Al-Dhahabi, Siyar A'lam Al-Nubala'i, 19/350, Al-Safadi, Al-Wafi with Deaths, 22/54, Al-Subki, Tabaqat al-Shafi'i al-Kubra, 7/231, Ibn al-Jawzi, al-Muntaza', 17/122.
- 34 Al-Subki, Tabaqat al-Shafi'i al-Kubra, 6/196.
- 35 Al-Shirazi, Tabaqat al-Fuqaha', 1/12 and beyond, Ibn Khallikan, The Deaths of Notables, 3/168, al-Dhahabi, History of Islam, 10/424, Siyar A'lam Al-Nubala'i, 18/475, al-Subki, Tabaqat al-Shafi'i al-Kubra, 5/171, and beyond.
- 36 Ibn al-Najjar, Theil history of Baghdad, 16/47, al-Sarifini, al-Muntakhab, 1/361, Ibn Khalkan, The Deaths of Notables, 3/167, al-Dhahabi, Siyar A'lam Al-Nubala'i, 18/476.
- 37 Previous reference
- 38 The jurisprudence of the Imam Al-Haramain, Abd al-Malik bin Abdullah al-Juwayni, its castration, its impact, and its status, al-Deeb, Abd al-Azim, pg. 590, Dar al-Wafa, Mansoura, Cairo, p. 1998.
- 39 Al-Juwayni, Abd Al-Malik Bin Abdullah Bin Youssef Bin Muhammad Al-Juwayni, Nihyat al-Muttalib fi Derayah the Madhhab, Introduction to the Muhaqiq, p. 136
- 40 Al-Zuhaili, Muhammad Al-Zuhaili, Imam Al-Juwayni, Dar Al-Qalam, Damascus, 21st edition, publication year 1992 AD
- 41 Al-Juwayni, Abu Al-Ma'ali Abdul-Malik bin Abdullah bin Yusuf, T. 478, Ghiyath Al-Ummam and Al-Thith Al-Zalam, p. 104, investigated by Dr. Fouad Abdel Moneim, d. Mostafa Helmy, publisher, Dar Al-Da`wah - Alexandria, year of publication 1979
- 42 Ghiyath al-Ummom and Tāthāt al-Zalm, p. 116
- 43 Jurisprudence of Imam Al-Haramain, Abdul Azim Al-Deeb, p. 39
- 44 Jurisprudence of Imam Al-Haramain, Abdul Azim Al-Deeb, p. 40
- 45 Previous reference, pg. 485
- 46 See (Al-Burhan fi Usul al-Fiqh). Volume 2, p. 1443 and beyond
- 47 Jurisprudence of Imam Al-Haramain, Abdul Azim Al-Deeb, pg. 59
- 48 Ibn al-Imad, Abd al-Hay bin Ahmed, nuggets of gold, vol. 1, pg. 360
- 49 See Al-Ghayathi, paragraph 666

- 50 Ibn Manzur, Muhammad Ibn Makram Ibn Ali Jamal al-Din Ibn Manzur al-Ansari, T.: 711 AH, Lisan al-Arab, vol. 1, p. 541, Publisher: Dar Sader - Beirut, 3rd edition - 1414 AH
- 51 Al-Nawawi, Abu Zakaria Muhyi Al-Din Yahya bin Sharaf Al-Nawawi, 676 AH, edited by the words of the alert, p. 33, Investigator: Abdul Ghani Al-Daqer, publisher: Dar Al-Qalam - Damascus
- 52 Ibn Batash, Imad al-Din Abi al-Majd Ismail bin Barakat, 655 AH, the singer in the news on the authority of Ghareeb al-Muhadhab and al-Asma', investigation: Mustafa Abdul Hafeez Salem, Publisher: The Commercial Library - Makkah al-Mukarramah, Riyadh, 1st edition,, 1991 AD
- 53 See: Al Hawi Al Kabeer, part 1, p. 78-80
- 54 The previous reference
- 55 Al-Kasani, Abu Bakr bin Masoud bin Ahmad Al-Kasani Al-Hanafi, 587 A.H., Badaa' Al-Sana'i fi Arranging Al-Sharia', vol. 5, pg. 132, Publisher: Dar Al-Kutub Al-Ilmiyya
- 56 See: Al Hawi Al Kabeer, part 1, p. 78
- 57 Al-Nawawi, Abu Zakariya Muhyi Al-Din Yahya Bin Sharaf Al-Nawawi, 676AH, Al-Minhaj Sharh Sahih Muslim Bin Al-Hajjaj, Publisher: Arab Heritage Revival House - Beirut.
- 58 Ibn Najim, Zain al-Din bin Ibrahim bin Muhammad, died. 970 AH, al-Bahr al-Ra'iq, Explanation of the Treasure of Minutes, vol. 8, p. 212, Publisher: Dar al-Kitab al-Islami
- 59 See: Ibn Qudamah, Abu Muhammad Muwaffaq al-Din Abdullah bin Ahmed bin Muhammad bin Qudamah al-Maqdisi, 620 AH, Al-Mughni, part 1, pp. 57-58, Publisher: Cairo Library, Publication date: 1968 AD
- 60 Al-Bukhari, Muhammad bin Ismail Abu Abdullah, died. 256 AH, Al-Musnad Al-Sahih Al-Mukhtasar Al-Musnad Al-Sahih Al-Mukhtasar from the matters of the Messenger of God, peace be upon him, his Sunnah and his days, vol. 4, p. 83, Hadith No. 3109, Investigator: Muhammad Zuhair bin Nasser Al-Nasir, publisher: Dar Touq Al-Najat, 1st edition, 1422 AH.
- 61 Al-San'ani, Muhammad bin Ismail bin Salah bin Muhammad Al-Hasani Al-San'ani, T. 1182 AH, Subul Al-Salam, part 1, p. 46, Publisher: Dar Al-Hadith
- 62 Previous reference, part 1, pg 47
- 63 Al Hawi Al Kabeer, part 1, p. 78-80

- 
- 64 Al-Nawawi, Abu Zakaria Muhyi Al-Din Yahya bin Sharaf Al-Nawawi, 676 AH, Al-Majmoo' Sharh Al-Muhadhdhab, Volume 1, p. 259, Publisher: Dar Al-Fikr
- 65 Al-Mardawi, Alaa Al-Din Abu Al-Hassan Ali Bin Suleiman Al-Mardawi, T. 885 AH, Fairness in knowing the most correct of the dispute, vol. 1, p. 83, Publisher: House of Revival of Arab Heritage, 2nd edition.
- 66 See: Nihayat Al-Muttalib, part 1, p. 40
- 67 The previous reference
- 68 Imam, Allama, hafiz, judge, Abu Bakr Muhammad ibn Abdullah ibn Muhammad ibn Abdullah al-Arabi, died in 543 AH, Biography of the Nobles' Flags, vol. 23, p. 266
- 69 Abu Abdullah Muhammad bin Ahmed bin Abdul Aziz bin Utbah bin Humaid bin Utbah bin Abi Sufyan bin Harb, the Umayyad Sufyani Al-Atabi Al-Qurtubi Al-Maliki, author of the book (Al-Atabiya), the biography of the nobles, vol. 12, p. 355
- 70 Muhammad ibn Abd al-Salam ibn Yusuf ibn Kathir al-Hawari al-Monastiri, Abu Abd Allah: a Maliki jurist. He was the judge of the community in Tunisia. Attributed to (Monastir), died in 149 AH, Al-Zarkali, Khair Al-Din bin Mahmoud bin Muhammad bin Ali bin Faris, Al-Zarkali Al-Dimashqi, died in 1396 AH, Al-Alam, vol. 6, p. 205, Publisher: Dar Al-Ilm for Millions, i: 15, 2002 AD
- 71 Muhammad bin Ali bin Omar Al-Tamimi Al-Mazari, Abu Abdullah: An updated one, from the Maliki jurists. Attributed to the Mazer of an island in Sicily, and his death in 536 AH. Al-Zarkali, Al-Alam, vol. 6, p. 277.
- 72 Imam, Allama, Sheikh of the Malikite School, Abu Muhammad Abd al-Wahhab ibn Ali Nasr ibn Ahmad, Classified in the Madhhab, Book (Indoctrination), who died in 422 AH, Biography of the Flags of Nobles, vol. 17, p. 430
- 73 Al-Hattab Al-Ra'ini, Shams Al-Din Abu Abdullah Muhammad bin Muhammad bin Abdul Rahman Al-Tarabulsi Al-Maghribi, T.: 954 AH, Talents of the Galilee in a Brief Explanation of Khalil, Part 1, p. 129 Publisher: Dar Al-Fikr, 3rd edition.
- 74 Abu Amr Othman bin Omar bin Abi Bakr bin Yunus al-Kurdi, al-Dawini of origin, Isna'i by birth, al-Maliki, author of classifications, died 646 AH, the biography of the nobles, al-Dhahabi, Shams al-Din Abu Abdullah Muhammad bin Ahmed bin Othman al-Dhahabi, died: 748 AH, the life of the flags The Nobles, Vol. 20, p. 197, Investigator: A group of

investigators under the supervision of Sheikh Shuaib Al-Arnaout, Publisher: Al-Resala Foundation, 3rd edition, 1985 A.D.

75 Talents of the Galilee in a brief explanation of Khalil, part 1, p. 129

76 See: Nihayat Al-Muttalib, part 1, p. 129

77 Sahih Al-Bukhari, Volume 7, pg. 113, Hadith No. 5634

78 Ibn Rushd, Abu Al-Waleed Muhammad bin Ahmed bin Rushd Al-Qurtubi (the grandfather), died in 520 AH, the introductions, volumes 3, p. 454, Publisher: Dar Al-Gharb Al-Islami, 1st edition, 1988 AD

79 See: Al-Mughni by Ibn Qudamah, vol. 1, p. 58

80 Ibn Abd al-Bar, Abu Omar Youssef ibn Abdullah ibn Muhammad ibn Abd al-Bar ibn Asim al-Nimri al-Qurtubi, T.: 463 AH, Istikhara, Part 8, p. 350, investigation: Salem Muhammad Atta, Muhammad Ali Moawad, Publisher: Dar al-Kutub al-Ilmiyya - Beirut, 1st edition, 2000 AD

81 Sahih Al-Bukhari, Volume 7, p. 113, Hadith No. 5634

82 Sahih Al-Bukhari, Volume 2, p. 73, Hadith No. 5634