

Methods Of Debate in Islamic Legal History

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Summary

Debate, cedel and hilaf are three discussion methods used in the Ottoman scientific tradition. Debate is a more general method and is carried out according to the principles of classical logic. Cedel and hilaf are the methods used more in religious sciences and are more specific than debate. This article will focus on the definition, history, features and usage styles of these three discussion methods.

Key Words: Debate, argument, conflict, debate, method in sciences

Introduction

In the Ottoman scholarly tradition, three methods were used in oral and written debates: Debate, jadel and hilaf. Debate is a general method of argumentation that takes its principles from classical logic and includes other argumentation techniques, while jadel and hilaf are more specialized argumentation methods used in religious sciences.[1]

Jadal is a science that determines the procedure and method of the debate between sects. The science of jadal is regarded as the substance and the science of hilaf as its form, and since these two sciences are highly interconnected, the works written about them have dealt with them together.[2]

The aim of debate is to reach the truth in the matter under discussion, while the aim of jadal is to convince the opponent, and the aim of hilaf is to reject the views of the opposing sect. Jadal and hilaf, which are close to each other in terms of purpose, differ from debate, whose purpose is to find the truth.[3]

While it is possible to adopt a harsh and sarcastic attitude towards the opponent in jedal, it is obligatory to argue with a calm and mature attitude in debate.[4] In jedal, the evidence used to convince the opponent must be from the famous and conventional. There is no such limitation in debate and the science of hilaf, and a wide variety of evidence can be used to prove the claim.

A. Debate

1. Debate in General

Debate is derived from the word "nazar", which means to look, to think, to contemplate, and to make an inference. Nazar means contemplation, reflection, consideration, and deduction. As a word, debate means mutual looking, thinking, contemplation, and deduction.[5]

As a term, debate is defined in different ways by scholars. Gelenbevi's definition of debate is based on the concepts of logic: "debate is the science that talks about universal issues (propositions) that are acceptable and acceptable or not acceptable and acceptable." [6] The definition in Keşfü'z-Zünun is shorter and more concise: Debate is "a science that talks about the rules according to which the words of the debating opponents are to be spoken." [7]

By making use of the above definitions, we can define debate, which is also called the science of etiquette and the science of bahs, as the mutual discussion and exchange of ideas between two or more people in order to reach the truth on any subject within the framework of certain rules and principles.

The subject of the debate is the evidence that proves the claim put forward. Debate, which is a general method of discussion using the concepts and rules of logic, is also a tool science like logic. In all branches of science, the method of debate can be used to reveal the truth about the subject under discussion and to disprove the opponent.[8]

2. The Birth of Debate

Following the tradition in religious sciences, we can base the foundations of the science of debate on verses and hadiths. The Qur'an contains many debates between prophets and people on the opposing side. In these debates, methods such as asking for evidence against the claim in order to show the falsity of the opposing opinion, showing that the claim or its necessity contradicts the reality, opening the debate by considering the possibilities, making the opponent doubt, refuting the opinion put forward through question and answer, using a decisive attitude and using a definite statement, cursing the wronged party jointly (mubahale), citing parables and parables to reveal the insincerity and injustice of the interlocutor.[9]

The emergence of debate as a methodical way of discussion began with the interaction of Muslims with other religions. In this interaction, a systematic knowledge of debate was needed in order to demonstrate the superiority of Islam over other religions, and later on, debate methods began to be used in discussions among Muslims themselves.

After the application of jadal to fiqh in the Xth century, the concepts of jadal, hilaf and munazara began to be used together. Since these three sciences were used together in this period, the science of munazara had not yet been formed independently.[10]

From the beginning of the XIVth century, works under the title of Adab al-Bahs and Debate began to be written. Later in the Ottoman period, works on the science of debate continued to be written. Molla Lutfi's Risale fi'l-Ulumi'l-Ulumi'sh-Shar'iiyeti ve'l-Arabiyye is one of them, and there are over a thousand books on debate in libraries where manuscripts are available.[11]

3. Two Basic Methods in Debate

Two methods have been generally followed in the works written in debate and other discussion manners: al-Pazdawī and al-Amidī methods. According to al-Pazdawī's method, only evidence based on nass, ijma and qiyas can be used in debate. According to al-Āmidī's method, on the other hand, all information that has the quality of evidence can be used in debate, regardless of the science and subject matter. Although this method is good because of the diversity of evidence and the breadth of the field of discussion, it is also open to demagoguery (mugalata). Āmidī wrote a short work called Irshad on this method, and scholars like al-Nafsī continued this method.[12]

4. Concepts Used in Debate

It is as important to conduct debate in accordance with the rules as it is to do it with the intention of finding the truth. The person who puts forward an opinion in the debate either cites a source or puts forward a claim of his/her own. Anyone who cites a source must cite the source. However, the source must also be appropriate to the topic. For example, if someone quotes from a history book about the husband's responsibility in marriage, it will be invalid. This is because marriage is a matter of law, so one cannot quote from a history book about the legal aspects of marriage. The legal aspects of marriage must be transferred from the books of law. Therefore, the transfer is invalid.[13]

In debate, each opinion holder has to prove his/her opinion with evidence. A claim without evidence is called tahakum. Tahaqqum is not taken into consideration. However, if the claim is based on the obvious (bedihiyat), evidence is not required. Because no evidence is required for the truth of self-evidentness[14]. Propositions whose truth is self-evident are called bedihiyat. No evidence is needed for the acceptance of the truth of propositions from bedihiyat. For example, "the whole is greater than the part" and "one is half of two". Propositions from bedihiyat are divided into six as a prioriiyat, fitriyat, müşahedat, mujarreat, hadsiyat and mutawatirat.[15]

In debate, it is also not possible to reject or refute a claim without any evidence. This is called taqabarah, and like domination, taqabarah is not taken into account.[16] However, as stated in the

paragraph above about domination, there is no need for evidence for the validity of opinions that are from the bedihiyat.[17]

In debate, the one who comes up with a claim (muallil) proves his claim with an evidence according to the rules of logic. The one who responds to the evidence (sail) can do three things:[18]

Prevention (men): If he does not accept that evidence, he says "I will not accept it" and asks for another evidence.

Refute (nakz): Proving that the evidence is invalid with another evidence.

Contention (muaraza): He may refute not the evidence, but the opinion put forward, with another evidence.

The objection of the challenger and the answer of the proponent to this objection must be compatible (muwajjah). If the questions and answers are not compatible or irrelevant, they will not be accepted.

The silencing of the opponent by the one bringing evidence is called ilzam, and the silencing of the opponent by the responder is called ifham. The strength of ilzam is greater than ifham. This is because the job of the one who brings evidence is much more difficult than the one who responds. The one who responds to a claim says "I do not accept it, prove it" and steps aside. The one who brings evidence, on the other hand, has to prove his claim.[19]

Sometimes in debate, the respondent may also present counter-evidence, even though the burden of proof is not on him or her. By presenting counter-evidence, the respondent refutes the evidence of the one who brought the evidence. This is called grabbing and is not acceptable in debate. This is because the grabbing person is taking the work of the one who brought the evidence upon himself

If the responder tries to prove his claim with a new piece of evidence after refuting it with a witness, then he becomes the proponent of the evidence and the opponent becomes the opponent. In this case, the one who used to be the proponent of the evidence becomes the opponent, and he responds to the other person in one of the ways of prevention, refutation, or contention.

In muaraza, the one who responds can prove his claim with other evidence by choosing the way of contention. Such is the case of the famous debate between Abraham and Nimrud. In order to prove Allah's sovereignty, Abraham put forward the following argument:

"Allah gives life and kills". Nemrud replied

He said, "I too can give life and kill" and pardoned one of the two criminals and had the other executed. Thus, Nemrud rejected (nakz) Ibrahim's evidence.

Thereupon, instead of refuting Nimrud's argument, Ibrahim (peace be upon him) put forward another argument:

Nemrud was astonished when he said, "Allah makes the sun rise in the east; let us see you make it rise in the west." [20] There is no doubt that Ibrahim's meaning of giving life is to give life to inanimate objects, and that this is also reserved for Allah Ta'ala. This was also known to the people in Nimrud's assembly. Nemrud, on the other hand, took it to mean something else and went down the path of demogoji (mugalata) and

"I also give life and kill. Then you must surrender to my rububiyyah."

"Ibrahim could have completed his argument by explaining that he did not intend such killing and killing. When Abraham could have completed his argument by explaining that he did not intend such killing and killing, he immediately switched to another example, removing the doubt of those who might have doubted and silencing Nimrud. During the debate, words about concepts may be objected to because they do not conform to the rules of definition and division. According to Aristotle, a definition is, in the most general terms, a statement that explains what something is. A definition is a statement that unites an object with things of the same genus and distinguishes it from things from which it is different. One can object to a definition on the grounds that it is not "all inclusive and all exclusive", that is, it does not include all its elements and excludes foreign elements. Similarly, division, which means dividing a whole into parts in such a way that no part of it is left out, must also be complete. That is, no part of the whole should be outside the division, and no elements from outside should enter the divisions. [21]

5. Rules of Debate

As mentioned above, the common field of reference in debate is classical logic. The arguments and claims of the parties that do not comply with the rules of logic are considered invalid. [22]

In fact, unlike jadal and khilafat, debate is a consultation. The purpose of debate is to learn the truth of the matter, not to boast and brag. Debate is not done for the purpose of gaining the upper hand or embarrassing the other person. [23]

One of the rules of debate is not to go beyond the topic under discussion. Because off-topic conversations do not contribute to the debate, and time is wasted in empty discussions. [24]

During the debate, it is necessary not to weary the listeners by prolonging the speech (itnab). At the same time, one should not be so short and concise as to make it difficult to understand. In particular, one should avoid short words that cause hesitation and strange expressions that make it difficult to understand.

If the debater does not understand the other person's words, he can ask him to repeat them. However, he should not answer before understanding the other party's words.

It is not right to laugh, struggle, get angry or shout during a debate. Ignorant people do these things to cover up their ignorance. However, in this way they reveal their ignorance. [25]

During the debate, one should not belittle the other person. Otherwise, he may be defeated by putting forward weak arguments because of his contempt for the other person. In short, one should speak carefully, listen carefully to what the other person says, and then respond accordingly.[26]

It is wrong to interrupt the other person halfway. Especially when two people are arguing, it is very inappropriate for a third person to interrupt them and interject. Since human beings are in a hurry and ambitious by nature, they can often fail to overcome their ambition and make such mistakes. For this reason, the moderator of the debate has very important duties. If the administrators do not manage the debate well, chaos will arise in the debate environment and no result will be achieved.[27]

6. Benefits of Debate

From the early ages to the present day, people have competed their ideas and thoughts in all branches of science and have reached new truths from the collision of ideas. The most important benefit of debate is to reach new horizons and truths on the subject under discussion.

Debate enables the parties and especially the students to learn the subject under discussion in depth. "An hour of debate is more beneficial than reading a book for a month. However, it should be done with a person who has good intentions and wants to learn the truth of the matter." Taşköprülüzade emphasizes the value of debate as a method of learning and teaching.[28]

A debate conducted in accordance with its rules protects the parties from making mistakes. Using the criteria of classical logic, debate is a branch of science that evaluates the claims and defenses of the parties in terms of compliance with these criteria. As long as the parties act in accordance with these criteria in the debate, they are protected from making mistakes.[29]

Used as a teaching method in Ottoman madrasas, debate helped students understand their lessons better and get rid of rote memorization. It is understood that the madrasas, which were accused of providing an education based on rote memorization, were unfairly accused because they used the method of debate. This is because in debate, information that has not been thoroughly thought out and that does not stand on its own feet cannot be used, and even if it is used, it is immediately refuted by those on the other side. Moreover, since there can be no interpretation without knowledge, knowing the basic texts by heart is not a deficiency, but rather a virtue. A person who has the basic texts in his head has one foot firmly planted on a solid ground and can confidently sail with the other foot into the vastness of the ocean of knowledge.

Knowledge that is not reinforced in debate is as incomplete and flawed as an untested product. This knowledge needs to be reinforced in debate and its accuracy reviewed. Or debate is like a doctor putting his theoretical knowledge into practice on patients. Knowledge is a sapling planted in the soil. In order for this sapling to grow, it needs to be watered with debate water in class.[30]

In Ottoman madrasas, students would spend 8-9 hours preparing for the lessons they had learned the day before, and the next day they would debate them for 4-5 hours in the presence of their

teachers, with their teachers acting as referees.[31] In order for these debates to begin, students were first required to have thoroughly learned basic logic books such as Qazvini's *Shamsiyya*. After that, they would proceed to reading books on debate and practicing debate. However, debate-like conversations and exchanges of ideas were also practiced before reading debate books.[32]

7. Some Basic Works on Debate

The main works written about debate and taught in Ottoman madrasas are:[33]

1. *Risalet al-Samarqandī* by Shams al-Dīn al-Samarqandī (d. 702/1303): Samarqandī was a scholar who worked in the fields of fiqh, theology, logic, mathematics and astronomy. While his predecessors wrote works of debate only on theology and jurisprudence, Samarqandī, for the first time, wrote a general book of debate that could be applied to all sciences. The first part of the work defines the concepts related to debate, the second part describes the realization of debate, and the last part gives examples of debate in philosophy, theology, and jurisprudence.[34]
2. *Sharḥ Kamal al-Dīn al-Masūd al-Shirwānī* (d. 905/1499-1500): Shirvanī was a competent scholar in the fields of logic and theology. This work is the most famous commentary on *Risalet al-Samarqandī* and was taught at the intermediate level in Ottoman madrasas.
3. *Hashiyet al-Aswad* by Yahya b. Ahmad al-Kashī (d. 745/1344): One of the scholars trained by the Meraga school of mathematics and astronomy, al-Kāshī wrote works in the fields of logic, mathematics, rhetoric and hadith.
4. *Adab al-Adudiyya* by Adudiddīn al-Ijī (d. 756/1355): Born in 1281 in Ijī near Shiraz, the author wrote works in the fields of kalam, usul, adab and language. *Adab al-Adudiyya*, a concise and useful work, was taught at the beginner level in Ottoman madrasas. There are many commentaries and glosses of this treatise, which consists of ten lines on the rules and method of argumentation and the rules and method of the science of debate.
5. *Sharḥ al-Khanafiyya* by Muhammad al-Tabrizī (d. 900/1494): Tabrizī, a scholar of logic, theology and exegesis, died in Bukhara.
6. *Hashiyet al-Mir* by Muhammad Ardabilī (d. 875/1470): This work is a gloss on al-Ijī's *Adab al-Adudiyya*.
7. *Taşköprüzade's Şerhu Taşköprüzade*: Born in Bursa in 1495, Taşköprüzade (d. 963/1561) wrote about forty works in the fields of language, logic, history, history of sciences, medicine, mathematics and theology. This work is a commentary on the debate treatise written by Taşköprüzade.
8. Muhammad b. Abi Bakr al-Marashi's *Takriru Kavanin*: The author, known as Saçaklızade, was born in Maraş and died in the same city in 1145/1732. He wrote more than thirty works in various fields.

B. Dialectic

1. Definition of Dialectic

The Arabic word "dialectic" (جَدَل) is derived from the Greek word "dialektike", which means "to reason, to argue". In philosophy and logic, dialectic is a method of argumentation that involves the use of questions and answers to explore and resolve a controversial issue.

Dialectic can be traced back to the ancient Greeks, who used it as a way to teach and learn about the natural world. Socrates, for example, would ask his students questions about their beliefs in order to help them to see the contradictions in their own thinking. This process of questioning and answering was called "Socratic dialogue".

In the Middle Ages, dialectic was used by Muslim scholars to debate religious and philosophical issues. The most famous Muslim dialectician was Al-Farabi, who developed a system of dialectical reasoning that was based on the works of Aristotle.

Dialectic was also used by Christian scholars in the Middle Ages. Thomas Aquinas, for example, used dialectic to defend the Catholic faith against the arguments of Muslim philosophers.

Dialectic is still used today in a variety of fields, including philosophy, law, and science. It is a powerful tool for exploring complex issues and for resolving conflicts.

2. Early Works on Dialectic

The first known work on dialectic was written by the Greek philosopher Aristotle. In his book "Prior Analytics", Aristotle laid out the basic principles of dialectical reasoning. Aristotle's work was later translated into Arabic and studied by Muslim scholars.

One of the most important Muslim scholars of dialectic was Al-Farabi. Al-Farabi developed a system of dialectical reasoning that was based on the works of Aristotle. Al-Farabi's work was later translated into Latin and studied by Christian scholars.

Another important Muslim scholar of dialectic was Al-Ghazali. Al-Ghazali used dialectic to defend the Muslim faith against the arguments of Christian philosophers. Al-Ghazali's work was later translated into Latin and studied by Christian scholars.

3. The Legitimacy of Dialectic

The legitimacy of dialectic has been debated by philosophers throughout history. Some philosophers have argued that dialectic is a valid method of argumentation, while others have argued that it is not.

One of the main arguments against dialectic is that it is based on the assumption that there is no such thing as absolute truth. Dialecticians argue that all truth is relative and that there is no single, correct answer to any question. This argument has been criticized by some philosophers, who argue that it leads to relativism and nihilism.

Another argument against dialectic is that it is a form of intellectual trickery. Dialecticians are skilled at using questions and answers to confuse their opponents and to make them look foolish. This argument has been criticized by some philosophers, who argue that dialectic is not a fair or honest way to debate an issue.

Despite these criticisms, dialectic remains a popular method of argumentation. It is a powerful tool for exploring complex issues and for resolving conflicts. Dialecticians argue that it is a more effective way to learn the truth than simply asserting one's own beliefs.

4. The Benefits of Dialectic

Dialectic has a number of benefits, including:

- It can help to clarify complex issues.
- It can help to resolve conflicts.
- It can help to develop critical thinking skills.
- It can help to promote tolerance and understanding.

Dialectic is a powerful tool that can be used to improve communication, to solve problems, and to learn the truth.

5. The Harms of Bad Dialectic

In addition to the benefits of good dialectic, which is conducted in accordance with the rules, there are also a number of harms associated with bad dialectic[48]:

- Bad dialectic, which is conducted with the intention of defeating an opponent, asserting one's own superiority, or becoming famous, can lead to hatred, hostility, and anger.
- Bad dialectic can also waste time. For this reason, scholars have ruled that bad dialectic is not permissible.

6. The Etiquette of Dialectic

Dialectic, like debate, has certain rules, principles, and etiquette:

- The disputing parties must have common truths on basic issues. Otherwise, it is not possible to have a positive outcome from the discussion.[49]
- The goal of the parties in dialectic should be to find the truth and to move away from error. Dialectic cannot be done for the purpose of boasting, gaining fame, or showing off.[50]
- The person's goal in dialectic should not be to rejoice by defeating the enemy. Dialectic done for this purpose is likened to animals fighting each other and is not seen as correct.
- It is not right to speak in a loud voice above normal during dialectic. The parties should continue the discussion in a dignified and humble manner.[51]
- Dialectic should not be done with people who are full of hatred and hostility.[52]
- During dialectic, the person should try to remove fear from his heart.
- A person should not do dialectic with people who are not at his level. Otherwise, he is exposed to insults, humiliation, sadness, and anger.
- It is necessary to avoid getting angry and getting angry with opponents during dialectic. Because anger weakens a person's ability to remember and think healthily.
- Dialectic should not be done with people who are not serious and are casual.
- During dialectic, a person should protect the reputation of himself and his opponent.
- During dialectic, one should approach the opponent with a smile and goodwill.
- If the opponent is very knowledgeable, it is a safer way to talk about easy matters without getting into deep subjects.
- Even if the opponent is weak, the evidence presented should be solid and reliable. Because there may be people who know the subject well among the audience and they may intervene in the discussion and put the parties in a difficult situation.
- It is necessary to listen carefully to the opponent's word and to understand it well and to answer it accordingly.
- During the discussion, no slackness should be shown to the opponent until he is admitted. Because showing slackness in the discussion is considered bad luck. For this reason, dialectic should be done in a balanced style between aggression and slackness.
- If a contradiction is seen in the opponent's word, it should not be refrained from expressing it immediately.
- It is necessary not to say too much about the issue under discussion.
- It is not right to underestimate the opponent and to humiliate him because of his mistake during the discussion.
- The parties should use clear, concise and clear expressions during dialectic.

7. Cheating in Dialectic

Cheating in dialectic is a wrong and harmful behavior that people with moral weakness will do. These people try to confuse the minds by using deep, closed and strange words that the addressee cannot understand. When the opponent tries to give an answer to these words, the discussion is doomed to insolubility by saying "I did not mean that, I did not say that". The way to get rid of this cheat is to explain to the party that says closed words what each word means and what he means by these words letter by letter.[68]

Another cheat that is done in dialectic is not to allow the opponent to ask a healthy question or to answer. Thus, the meaning of the question or answer is not understood and the result expected from the word is not obtained.[69]

C. Hilaf

Definition of Hilaf

Hilaf, which in the dictionary refers to meanings such as "to oppose, behave contrary, to dissent, to contradict," is a branch of knowledge that pertains to jurisprudence (fiqh) and its methodology in practice, and to dialectics (cedel) and debates in theory. The emergence of hilaf is closely linked to the application of dialectics by Islamic jurists to jurisprudence. According to Taşköprülüzade, who views hilaf as a sub-discipline of the methodology of jurisprudence and of dialectics and debate, hilaf is the "science that discusses various inferential methods, both concise and detailed, based on evidence, to support one and invalidate the other."

Hacı Halife defines hilaf as follows: "Hilaf is the science that sets forth the method of presenting legal evidence, dispelling doubts, and preventing counter-evidence through conclusive proofs." In his view, hilaf is a sub-branch of logic and can only be used for religious purposes. İzmirli İsmail Hakkı defines hilaf as the "science that discusses the states of legal evidence to protect a deduced legal ruling from being overturned by opponents." Since its principles are derived from dialectics, hilaf is considered to be the form while dialectics is considered to be the essence. Hilaf science serves to dispel doubts about the adopted viewpoint. As hilaf science is a sub-branch of the methodology of jurisprudence, those engaged in this field should be as proficient in jurisprudential methodology as methodologists. The conclusions drawn by methodologists according to the principles of jurisprudential methodology are safeguarded by those dealing with hilaf science.

Founder

The founder of the science of hilaf is generally attributed to Ebu Zeyd ed-Debusî (d. 430/1039), the author of "Tesisü'n-Nazar." While comparative legal works had been written before "Tesisü'n-Nazar," categorizing topics according to chapters of jurisprudence, Debusî introduced a different approach by classifying mujtahids (jurists capable of independent legal reasoning) into dual groups and examining their opinions in his work.

Legitimacy of Hilaf

Hilaf, akin to modern comparative law, is a legal field where varying opinions within and between schools of thought are debated. As with any subject, there have been extremists in the realm of hilaf, leading to severe accusations and hostile debates among individuals who hold fanatic allegiances to their own school or perspective. Due to these problematic consequences, scholars such as Cüveynî, Gazalî, and Serahsî have opposed the misuse of hilaf science.

On the other hand, when utilized correctly and without extremism, hilaf can yield valuable outcomes, such as arriving at the truth and testing the systematic and methodological integrity of a legal school. Ibn Khaldun emphatically states that hilaf is tremendously useful for understanding the sources and evidence behind the opinions of mujtahid jurists. Through hilaf, the sources and methods of deriving evidence of mujtahids can be identified, allowing for the evaluation of their adherence to their own methodologies.

Works on Hilaf

Among the books written about hilaf before Debusî's time are Ibn Jarir al-Tabari's "Ihtilafu'l-Fukaha," Abu Ja'far al-Tahawi's "Ihtilafu'l-Fukahas," Abu'l-Hasan al-Quduri's "Tecrid," Ibn Munzir al-Shafi'i's "al-Ishraf 'ala Mezhebi Ahli'l-Ilm," and Imam Shafi'i's "al-Umm." Some of the hilaf works written after Debusî's "Tesisü'n-Nazar" include Ebu'l-Hafs Ömer Nesefti's "Manzuma," Ibn Saati's "Muhtasar," Alauddin al-Samarqandi's "Muhtelifu'r-Rivaye," Faraḥi'l-Hanafi's "Manzuma," Radiyyüddin al-Serahsi's "Tarikatu'r-Rivaye," Muhammad al-Ghazali's "al-Mehaz," Abu'l-Muzaffer al-Samani's "Burhan," Abu Said Abdullah's "Teysir," Fakhr al-Din al-Razi's "Mealim," Abu Bakr al-Bayhaqi's "Hilafiyat," Ibn Kasar's "Uyunu'l-Edille," Abu Bakr b. al-Arabi's "Telhis," Abu Bakr al-Tartushi's "Tarika," Ibn Hubayra's "al-Ishraf 'ala Mezahibi'l-Eşraf" and "Talik," and Ibn Rushd's "Bidayat al-Mujtahid" and "Nihayat al-Muqtasid."

Khilaf science V-VIII. It lived its golden age between the (XI-XIV) centuries and gradually left its place to works that compiled the views of three, four or more sects. For example, Muhammad b. Rahmetü'l-Ümme fi İhtilafi'l-Eimme by Abdurrahman al-Kureşî al-Osmani (d. 780-1379) and Abdulvehhab al-Sharani's (d. 973-1565) al-Mizanü'l- His works named Kübra tried to outline the views of the four Sunni fiqh schools.[80]

In the last period of the Ottoman Empire, with the efforts of İsmail Hakkı from İzmir, hilaf was included in the program of the Faculty of Ulum-u Şer'iyye and a work called İlm-i Hilaf was written by him to be taught in classes. In İzmirli's work, the way of making a judgment, the conflict in the evidence of the judgments, the conditions of issuing the judgment, the conflict in the issues of fiqh, the issues of fiqh and the degrees of the fiqh books, the reasons for the disagreement and its implementation, the issues on which there is consensus, and the caliphate are discussed.

5. Caliph and Comparative Law

The science of khilaf is presented as a comparative jurisprudence by contemporary authors. The most important difference of these two branches of science is the comparison of the views of only the sects in Islamic law, in contrast to the examination of other legal systems in comparative law. However, in terms of comparing different schools within the same legal system, the science of khilaf can be accepted as a type of comparative law in Islamic law. Moreover, the examination of other religions and rules of law has been made in Islamic literature with books such as Shahrastani's al-Milel ve'n-Nihal.

With modernism in the Islamic world, the importance of comparative law has increased, and new works have begun to be written in which Islamic law and western law are compared. Selahaddin en-Nahî's work en-Nazariyetü'l-Amme fi'l-Kanuni'l-Muvazen ve Kanuni'l-Hilaf (Baghdad 1968) is one of them.[81]

Conclusion

Debate is a phenomenon that has continued from the first periods of history to the present day. In this respect, human beings have never been behind in arguing with their rivals, both in good faith and bad faith. Over time, blind discussion has been replaced by a methodical discussion, and styles such as debate, cedel and khilaf have emerged.

As can be seen in the section where the benefits of discussion methods are explained, the parties test the accuracy of their information and go further by pushing their own limits, thanks to debate,

argument and denial. In this respect, it can also be called the methods of debating, litigation and caliphate in law. Information based on rote and not tested for accuracy has been screened by these verification methods.

Contrary, one of the methods of discussion, draws attention as a kind of comparative jurisprudence. Although it is carried out in Islamic law, it is seen that the works related to the opposite are comparative law studies.

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