

JURISPRUDENCE AND LEGISLATION IN THE TWENTIETH CENTURY

(Voice from India, Muhammad Iqbal as an example)

M: Miloud Khalfallah

Doctoral

University mohamed khider biskra (Algeria)

miloudkhalifa19@gmail.com

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abstract:

With the discontinuation of revelation and the completion of the eternal prophecy, there was no room left for revelation from the Islamic point of view, but the jurists and legislators remained; Muslims proceed from established texts (the Qur'an and Sunnah) to solve emerging problems and debate their era. Islamic jurisprudence has witnessed the emergence of the two great schools of Islamic jurisprudence, the text school in the Hijaz and the school of reason in Iraq ; These two schools of jurisprudence were able to confront the problems of their time and take Islamic jurisprudence forward. Then, Islamic legislation took a step forward, and it is the era of the diligent imams in which jurisprudence and principles reached their zenith. Then followed this era the era of tradition and ijtiḥad and finally closed the door of ijtiḥad to launch a legislative and reform renaissance in the modern era, one of its most prominent men in the Islamic world, Muhammad Iqbal, who took the position of the scrutinizer, leaning on a deep Islamic and human philosophy.

Keywords : Iqbal, India, jurisprudence, Islamic law, Islamic , law , history.

***M: Miloud Khalfallah**

Abstract: (arabic)

بانقطاع الوحي واكتمال النبوة الخالدة لم يبق مجال للوحي من وجهة النظر الإسلامية إنما بقي الفقهاء والمشرعون؛ المسلمون ينطلقون من نصوص ثابتة (الكتاب والسنة) لحل المشاكل المستجدة ومحاوره عصرهم وقد شهد الفقه الإسلامي بروز المدرستين الكبيرتين من مدارس الفقه الإسلامي، مدرسة النص في الحجاز ومدرسة العقل في العراق؛ هذين المدرستين الفقهييتين استطاعا أن يواجهوا مشاكل عصرهم ويخطون بالفقه الإسلامي إلى الإمام ثم خطى التشريع الإسلامي خطوة إلى الإمام وهو عصر الأئمة المجتهدون الذي بلغ فيه الفقه والاصول أوجهه. ثم تلي هذا العصر عصر التقليد والاجتهاد وأخيرا أغلق باب الاجتهاد لتنتقل نهضة تشريعية وإصلاحية في العصر الحديث كانت من أبرز رجالها في العالم الإسلامي محمد اقبال الذي وقف موقف الفاحص المدقق متكأ على فلسفة إسلامية وإنسانية عميقة.

الكلمات المفتاحية: إقبال، الهند، الفقه، التشريع الإسلامي، القانون.

Introduction :

The innovators and the conservatives each have a vital social function. The innovators preserve the vitality and growth of the community; otherwise, the community would have stagnated. The conservatives also preserve the cohesion and stability of the community. Without them, the community would have been afflicted with all the manifestations of chaos and disorder like the feet of a human being. When one of them is static, the other is mobile. This applies to legislation completely.

The sources of Islamic legislation in the era of prophecy were confined to the Koran and the Sunnah, so the set of legal rulings in these two sources was the main material for jurisprudence and legislation, including the general foundations, rules and fundamental principles (1) , and ijtiḥad was not absent in this covenant. The Prophet strives and authorizes his Companions to make ijtiḥad and encourages them to practice it by saying (If

the ruler strives and reaches his goal, he will have two rewards, and if he strives and goes wrong, he will receive one reward)(2). Rather, ijtiḥād is no longer a legislative source because it refers in general to revelation as a statement, a change or a response... in order to train and prepare them for the task of legislation and to take charge of the affairs of state and society, and during the era of the Companions, may God be pleased with them, and after the Prophet, peace and blessings be upon him, joined the Supreme Companion, so no adding to the Book, nor to the Sunnah, they were striving in what the legislator did not provide a text for, and in what was a text that was a speculative evidence, so if they agreed on a ruling, it was to the unanimity, and if they differed, it remained a judgment of jurisprudence, and thus the sources became represented in the Book, the Sunnah, the Consensus, the Ijtiḥād or reasonable and measurement. The community was divided into mujtahids and jurists, muftis, and the common people.

This era witnessed the expansion of conquests and the emergence of modern developments, so the Companions and their disciples were looking and searching to reveal to them the rulings and describing solutions in an atmosphere of intellectual freedom in which the sources and perceptions were varied. The results of their researches predominated as large as the horizon the reality and conduct of affairs and the great capacity for a rapid and concious answering of the Islamic community movement .

This legislative era paved the way for that of maturity and progress, which was represented in the so-called era of codification and the diligent imams (3) in relation to the great activity witnessed by the writing and codification movement in this epoch, and to the emergence of a large number of men of jurisprudence and legislation, and the crystallization of many fundamentalist concepts that resulted in the emergence of the science of fundamentals. Fiqh is an independent science recorded in a special book, and at that time, ijtiḥād expanded in its research to go beyond facts and calamities to hypothetical matters, as legislative plans and ijtiḥād approaches varied, while the area of disagreement increased among the mujtahids, in a prevailing atmosphere of freedom. People were not bound by a particular

doctrine in this covenant as similar as the previous one, which gave legislation vitality and activity that supported it with factors of strength and survival... It emerged from these legislative intellectual conditions in addition to a set of factors and objective reasons, the emergence of two distinct approaches in jurisprudence and legislation and the emergence of two schools of jurisprudence, which are the school of hadith and the school of opinion, for each of them ancient roots dating back to the era of the Companions, may God be pleased with them all.

After the prosperity in which Islamic jurisprudence was, with its vitality and flexibility, Islamic legislation witnessed a cooling and the spirit of ijtihad began to breathe one's last breath, to stop little by little, then appeared the era of imitation which prevailed over the common people and specialists, unlike the previous legislative eras, so the most that the world reached is the study or comprehension of the words of his imam and his method of deducting.

The stagnation of the legislative movement in this era, came as a result of many psychological and political reasons, the most prominent and well-known of which is the call to close the door of ijtihad at the end of the fourth century AH, and to restrict specialists and judges, with the rulings of the previous imams, in order to block the pretexts in front of the legislative chaos caused by those who were intrigued by the Sharia (4).

Despite the decadence and stagnation for centuries, Islamic jurisprudence remained the source of Muslims in their rulings and judgments. Legislative weakness was a manifestation of stagnation, backwardness, and the general deterioration of Islamic civilization, which led Muslims and under colonial domination to succumb to imported laws, and the role of Islamic jurisprudence recedes in the department of worship and the field of personal status, and it was excluded from public life, which gave way to the emergence of generations that adopted Western legislations . (5) Renewal impulses have appeared throughout political, intellectual and legislative history, led by Muslim reformers, among them was Muhammad Iqbal, whose view and position on Islamic legislation that we will discuss later.)

1. Iqbal's belief in Islamic legislation

Iqbal believes with knowledge, certainty and civilized insight and historians that Islam is a global religion and is the greatest legislation for humanity, and says in his speech, "I spent most of my life studying Islam, its politics, its civilization and its literature according to my long study, and on the special relationship that I have in the spirit of teachings Islam ". I think that I have the insight with which I can judge the status of Islam in the world in terms of the general truth". (6)

Iqbal's belief in divine legislation reflects his trust in the justice of God and that he knows what is best for the affairs of his servants, and what brings them happiness and prosperity, and that legislation, if it is man-made, makes him vulnerable to whims and oppression. In this context, Iqbal says " When someone apart from God takes the right to legislate, then the strong will prevail over the weak". (7)

And, if we know the depth of Iqbal's Islamic studies and his intense reflection on the Book of God, we can easily realize Iqbal's call to implement Islamic law and establish a free Islamic renaissance based on Islamic theory alone. Iqbal said " My eyes never calumniated the Western culture because « my eyes never shut in town »_ that means that his well-balanced islamic personality protected him from melting away in the West, its culture and legislations, and he was not impressed anyway.

2. Endowment of Islamic ijtiḥad from Iqbal's perspective

After having explained previously the strength of Iqbal's belief in Islam and its legislation, which emerged from his balanced subjectivity, as he is neither a generalized jurist nor isolated with Western thought, we turn to Iqbal's criticism of traditions and his rejection of the stagnation of legislation among Muslim jurists.

Iqbal sees when analyzing the phenomenon of imitation that its cause is the jurists' fear of the dissolution of social cohesion, due to the emergence of disputes and the penetration of strange ideas about Islam such as philosophical mysticism. This is on one hand, on the other hand, the invasion of The Tartars on Bagdad was natural in such epoch of

political dissolution for the Conservative thinkers the happening of another dissolution. So, they concentrated all their efforts in one matter, which is to maintain a single steady social life for all people, so they denied any innovation in the rulings of jurisprudence established by the first generation of jurists. (8)

In Iqbal's assessment of this decision, he sees that the jurists have been right and wrong in that. As for their correctness, it is due to the necessity of having fixed elements in the life of society, and that every system must resist the forces of decay. And for their errors, they are due, according to Iqbal, to their persistence in staying to a large extent in dependence and imitation. (9)

The results of this decision from Iqbal's perspective were very dire, and they led to the failure of Islamic legislation to keep pace with life, and to the jurists' neglecting of the emerging changes in reality, which formed a great gap and a rupture between Islamic legislation and the renewed society.

The situation that Islamic jurisprudence, as Iqbal says, has led to the emergence of "the superficial opinion that says that the Sharia of Islam is a static Sharia that is not open to development". (10)

One of the most dangerous consequences of stopping ijihad in the Islamic world, according to Iqbal, in addition to the under development of the Islamic legislation, is the shaking of confidence in the validity of Sharia itself among Muslims, and their dispensation with European laws.

3. Criticism of Iqbal to imitation and legislative stagnation and his call for ijihad

Iqbal starts his criticism of the phenomenon of legislative stagnation in the Islamic world, from the legislation itself with its historical bases, which gives his critical work arguments and credibility, and includes his call for diligence and innovation in this legislation in the movement of self-criticism and original references.*

Iqbal sees that what some may imagine that there are benefits to the stagnated legislative movement is not counted and does not be mentioned in

front of its damages, especially since this position came out of the scope of exception and necessity to consider it the basic rule and permanent reality.

Iqbal referred to the transformation of this necessity in being satisfied with the past of Islamic jurisprudence from new research and *ijtihad* in every age and generation, to neglecting the beginning of the idea's emergence, forgetting its being a necessity, and its becoming to the sanctification of history and the past, and the prohibition of departing from the inherited reality. The veneration of history is false, and its artificial resurrection is not a cure for the dissolution of a people... Our environment is not obligatory in everything, but rather lacks modification, and tends to exaggerate the organization by showing a false respect to the past, which we observe among Muslim jurists in the thirteenth century AD. What he said is contrary to the spirit of Islam . (11) Iqbal means here that many historians who glorify without objectivity of Islamic history turn a blind eye to its mistakes, and glorify the history of Islam that it does not contain, as if they are practicing psychological compensation for the weak present in which they live, and as the Iranian proverb says "they make all their texture silk", that is to say, their whole history is beautiful.

Iqbal takes a deep start in his critical project, as he decides to reject the Islamic conception and the Islamic faith, for rigidity, steadfastness and stillness. This stagnated jurisprudence is in opposition to the faith and Islamism mystification of the universe because "Islam, as a cultural movement, rejects what the ancients used to consider the universe as stable and fixed, and arrives at the opinion that says it is moving and changing". (12)

Iqbal confirms this fact and links it to the rejection of imitation, as he says: "The ruling of the Koran over existence as a creation that gradually increases and ascends requires that every generation have the right to be guided by what it inherited from the traces of its ancestors without being hindered by that heritage in its thinking, judgment and solving its own problems". (13)

The Greeks believed that the universe was stable and permanent, and those who focused on this were the divine philosophers, Aristotle and

Socrates, and they said that the world was old and stable. The world is ancient and eternal, and this is what confronted with the beginning of the Islamic perception and Islamic faith. The contemporary sciences confirm the cohesion either physics quantum and relativity to the cohesion with the Islamic conception towards the movement of the universe and its system. He refutes the age and ultra-conservatism of the world and this is the traditional Greek view of the universe and its manifestations. And the person, who confirmed this fact and insisted on, was the Doctor Muhammad Bassel Etahi, in his book « The Precision of Speech and its glory ».

*From Iqbal's previous sayings, we see the extent of the effects of the reality of the seal of prophecy**, in Iqbal's legal thought, which requires the absence of waiting and anticipation, and the launch of purely humanitarian work, which is the intellectual work of adapting events to the renewed life in an Islamic way (14). It has reasons, and it has purposes that it aims at, and interests that it is nominated for, so he says: "Since the rulings were not intended for themselves, they cannot imposed them on the future generations , (15) or in other words, Iqbal believes that ijtiḥād is the principle of Islam and its origin. It is the basis, and if the door of ijtiḥād is closed this will be an exception to the necessity of history in exceptional circumstances.*

*Iqbal fears for the Islamic legislation from the jurists who call to close the door of ijtiḥād, and asserts that the reason which pushes them to this is their incapability and failure to rise up to the level of a comparative jurisprudence study***. He says : "I have no doubt that delving into the study of jurisprudence books and legislation in huge number, must make the criticizer going out of the superficial opinion which says that Islamic law is static and not non developing by stages. Unfortunately, the majority of Muslim scholars who adhere to the ancient in this country have not yet finished the preparation for a study of jurisprudence by a critical study(16) . Iqbal adds : "I am not afraid for the fate and future of Islam, but I have only pity on Muslims who have fallen into stagnation, even though the Koran calls them to liveliness. "Don't you not think that every world is like a garment***

*** on the chest of the believer, and when the world becomes ancient on his chest, the Koran will give him another world”(17)*

In the last two phrases of this paragraph, Iqbal shows the intrinsic flexibility and adaptability implied by Islamic legislation, and the expansion of Islam to absorb and contain everything that is new and has benefit or necessity. Iqbal doesn't forget to present from this same legislation what shows the continuing and renewing movement of legislation. And among the general historical facts mentioned by Iqbal is that about from the middle of the first century to the beginning of the fourth century AH, no less than nineteen schools of Islamic jurisprudence and legal thought appeared in Islam. (18)

This is a fact, which shows clearly what our jurists provided in order to build a developed civilization. It was necessary for these jurists to find solutions to the problems of the countries in which Islam spread, depending on the local conditions of life and customs of the new peoples who entered Islam, and the careful study of the various schools of jurisprudence in the light of contemporary political and social history reveals that the jurists have gradually shifted from the method of deduction in their interpretations to the method of induction, so that their jurisprudential conclusions become in agreement with the new reality. (18)

Iqbal points out another fact, which is that the study of the four Usul and Fiqh sources can remove all this alleged inertia. He says : “There is nothing in the foundations of our legislation, nor in the building of our ideologies that justifies the present stagnation, and that the Islamic world, which is equipped with deep and penetrating thinking and new experiences, must present in a courageous way to complete the renovation that awaits .(19)

4. Iqbal and the Usul of Islamic Legislation (Usoul al-Fiqh);

Iqbal deals with the four Usuls : the Koran, the Sunnah, the Consensus, and the Measurement raising up many issues, and confirming a number of facts to reach the aforementioned truth : “There is nothing in the foundations of our legislation... that justifies the present tendency of stagnation”.

The Noble Koran : Iqbal did not address the definition of the Noble Koran, because it is too notorious to be explained. But, the fundamentalists insisted to give it a definition watching over that their definition would be comprehensive and precluding, as it was an argument in deducing rulings (20)

Iqbal was interested in reporting facts about the Great Book, especially with regard to the rejection of rigidity and imitation. Iqbal decided that the Koran was the first foundation of Islamic law, and the Koran, although it contains principles and general rules in legislation acting in fact as a stimulant for human thought. It is not codified in the law, rather its main purpose is to instill in the soul of man the highest levels of awareness of the relations between him and God and between him and the universe. (21)

*As previously, Iqbal focused on the ruling of the Koran on the changing and development of existence, and that it is a creation that increases and progresses. *****

The Sunnah: The Sunnah is in the language the way and the custom, whether it is good or bad. As for the terminology, it is according to the fundamentalists, what was reported from the Messenger of God, peace and blessings of God be upon him, in terms of saying, doing or declaring. (22).

In his talk about the Sunnah, Iqbal raises another issue, which is the extent of generality and specificity, and the influence of the first environment of the messages of hadiths related to legislation blazing the Imam Al-Dahlawy, saying : “As for the Prophet, who aims at general and comprehensive principles...for the way he follows...to teach a specific nation and use it as a nucleus for building a global law. In this situation, he confirms the principles on which the social life of human beings grows, resulting from this application, are judgements that can be imposed with their craftsmanship on future generations. (23)

Here, Iqbal draws attention to the necessity of taking into consideration the circumstances, causes, and customs in which the hadiths are mentioned, and the purposes and goals they aim at, and represent the spirit of the Sunnah

when applying and deducing rulings in various circumstances and conditions across ages and times. Ignoring these considerations and sticking to the craftsmanship of the Sunnah may lead to opposite results to the spirit of the Sunnah and the passages of its judgements themselves(24) . Iqbal is clearly sticking to the Sunnah as a source of legislation, but he rejected the misapplication and the literalness and apparentness of the interpretation.

Iqbal appreciates the jurists and hadith scholars' consideration of real conditions and their distance from abstract, theoretical thinking, and calls for continuing the study of what was written about the Sunnah, and necessitates what the traces indicate from the soul which the Prophet, peace be upon him, was interpreting his message. This study may turn out to be of great benefit in the understanding of the value of life in the principles of legislation which was declared by the Holy Koran, and this understanding alone is what concerns us when we try to interpret the principles of legislation in a new interpretation.

The Consensus : it is the third source of the Islamic legislation. For the fundamentalists it means an agreement of the assiduous thinkers of the century from the nation « Ouma » of Muhammed, may God's prayers and peace be upon him, on a legitimate matter . (25) For Iqbal, the Concensus is one of the most important legislative thoughts in Islam, but in fact it remained an abstract idea that rarely took the form of a revolving system in any of the Islamic countries, and this is due, according to Iqbal, to its opposition with political affairs of the absolute ruling that arose in Islam directly after the fourth Caliph. However, the pressure of the new global factors, according to Iqbal's perspective, and the experiences of European peoples in politics have made the thinking of Muslims in the modern era affected by them because of the value of consensus and the potential it entails. (26)

Iqbal's view of consensus stems from his theory of spiritual democracy that marries the earth and the sky. It is based on the people, but it takes its values from the holy revelation, as it does not depart from the faculties of faith and Sharia and their controls.

Among the issues raised by Iqbal, here, is his posing of the following question : "Is it possible for the Companions to unanimously agree on a matter that is binding on the generations to come after them ?" Iqbal answers this question, relying on Imam Al-Shawkani, by differentiating between what is endowment matters in which there is no ijihad and what are legal jurisprudential rulings, and it is reported from Al-Karkhi that the Sunnah of the Companions is binding in matters that are not clear by the measurement, and it is not so in what can be decided by the measurement. (27)

What appears here is that there is a kind of confusion between the authentic statement of the Companions, and the authentic consensus of the Companions. The first one is that one that we say what have been said as division and detail, as for their authentic consencus what is indisputable. (28)

Qiyas: *It means the language of appreciation, but in the terminology it was defined by some fundamentalists as the equity of a branch of origin in the cause of its judgement(29) . Iqbal gives a definition of the measurement as "the use of reasoning based on similarities between the cases in legislation ."* He considers it as the fourth source of Islamic legislation,(30) and he believes that the need for it comes from situations and fact that are not comprehended by the cases recorded in the Sunnah book.

*In Iqbal's opinion, the difference between the schools of opinion and hadith in Iraq and Hijaz***** has examined the definition of the measurement .(31) Its limits, conditions and conventions became over the years the source of life and movement in Islamic legislation and this basic principle, if it is well understood and applied, as Iqbal says, is rightly synonymous with ijihad(32).*

*Many thinkers make ijihad synonymous with the measurement, and among them was Iqbal. When pilgrimage was Arafat*****, the measurement was assiduity.*

Iqbal and his Ijtihad Project:

Based on the foregoing, we conclude that Iqbal emphasizes on the subjective vitality, and what is characterized by Islamic legislation in terms of the ability to develop and renew, and the unique flexibility to be alone in

keeping with the developments of human civilization (Professor Dr. Abadelwahab El-Mouchiri that the enmity of the West towards Islam which is in fact hostility to the man and therefore his hostility to Islamic legislation in its reality and essence is hostility to human legislation and who truly absorbs without others the natural development in vital and social phenomena. And therefore, he strives to do justice to this legislation and its vitality, which affected him from weakness and attempt to kill him as a result of stagnation and imitation, which resulted in disastrous results that reached a limit to his exclusion from the movement of life and the institutions of state and society, even to the point of questioning his universality and eternity, and the shaking of the confidence of many intellectuals from among the sons of Muslims themselves in his validity and feasibility in the era of modern civilization.

Iqbal did not pay attention to the huge effort made by global Zionism supported by colonialism and destruction and Freemasonry, which are united with all force and determination in order to banish Islamic legislation from life, because Iqbal died ten years before the establishment of the Zionist state, so it was not completely clear, at least in Iqbal's thought. The terrible alliance between Freemasonry and Zionism to banish Islam as a belief, a law, and even an existence. The battle is existential between Islam and this intrusive entity.

*Iqbal calls for ijtiḥād, which is the principle of the movement in Islam, and a source of renewal and vitality of Islamic legislation, and a self-guarantee for its renewal and universality, evidenced by its origins and rules and proved by its history, applications, and leadership of social and political life for several centuries. And what we want to show here are the milestones of the ijtiḥād and his boundaries so that it could be possible to understand and observe from Muhammad Iqbal's viewing angle and his texts on the subject. What we affirm is that Iqbal's call for ijtiḥād and for loosening the shackles of the Islamic legislation that tied it up the call to block the door of ijtiḥād, was not a reckless reaction, or a motivation for a civilized usurpation . * * * * * But it twas as we we are going to show an organized calling in and a concious movement which sleeps on a deep look and a healthy*

perception of Islam and its organized legislation original and historical on one hand, and to the reality its civilizational challenges and its emerging problems on the other hand. The ijtiḥad that Iqbal calls for is an ijtiḥad based on the balance between the constant changing, and explaining that in details of that is when he calls for ijtiḥad the basis for the movement, keeping pace with change and keeping up with evolution a universal principle, which represents in Iqbal's perspective the Islamic conception. He doesn't cancel out constancy nor does he neglect the principle of permanence, but Iqbal thinks that the society which has an Islamic conception is considered as a static universe. It must have eternal rules that organize its life, and control its affairs.

*Iqbal rises the role of the element of stability by saying, "This is because the eternal immortal fixes our feet in the world of constant changing". Therefore, the problem is not in the existence of fixed eternal principles, and in this point appears an obvious contradiction between Islam and Western modernity to post-modernity, but the problem lies, as Iqbal believes, in "our understanding that eternal principles exclude all possibility of changing, and this is in the point of view of the Holy Koran a verse among great verses over the divine self. This misunderstanding makes us tend to fix what is fundamental and variable in its nature, and if the problem is in fixing the variable, then its solution will not be according to Iqbal's with exaggeration, dissolution and changing the constant, and this is what made Iqbal realizing in a deep analysis that "Europe's failure***** in politics and sociology an example that illustrates the first principle, and the stagnation of Islam in the last five centuries an example that illustrates the second principle (33)*

*This compatibility and balance between the two principles is due to the nature of Islam itself, which combines between the eternal-immortal, the temporal-changing and the materialist-spiritual, the religion and the state. Starting from this concept, Iqbal advises on the necessity to be careful not to slip into disintegration denying of the constants*****. He says as it has been reported from him : "We welcome from the bottom of our hearts the*

liberation of thought in the modern Islam, but we should also state that the moment of the emergence of free ideas in Islam is one of the most delicate moments in its history. So the freedom of thought tends to be one of the factors of dissolution(34) . In the Modern Islamic History, the appearance of destructive movements (such as Al Qadiyania in India and Al Bahaiya in Iran, and on the contrary the extremist Wahhabism in the Arabian Peninsula

Iqbal criticizes and revolts against the stagnation of the traditional jurists who have almost isolated Sharia from life and put it in archaeological museums. He refuses that jurisprudence will be the cause of dissolution, as it happened to the Turkish poet and leader (Diya Kok Alp) in his call for equality between the man and the woman in divorce and inheritances. Iqbal criticizes him by saying "I am afraid that he seems to have little knowledge of the family law in Islam".

And the reform which is proposed by the poet about the inheritance system is based on a wrong understanding, and we should not conclude from the difference in the legal quorum, that the rule displays the superiority of the man over the woman, and this is contrary to the spirit of Islam. (35)

*In this balanced framework, we must understand Iqbal's position towards modern Turkey. When Iqbal said, "If the renaissance of Islam is a reality, and I believe it is a fact, then we must do one day what the Turks***** did. When looking at our mental heritage, if we cannot add something new to the general Islamic thinking, so we may succeed through the correct conservative criticism in curbing the movement of dissolution from the religion that is spreading rapidly in Islam. (36)*

Iqbal says, addressing Atatürk, you Atatürk, you have brought the idols Al-Lat and Manat and placed them in the place of the sanctuary, but you will not find the vitality of the honorable Kaaba as much as you revive the worship of idols again (the idols of the West and its false paganism)

The ijtiḥād that Iqbal urges, then, it is characterized by originality and subjectivity, and starts from what Islam contains in itself as the tools of flexibility and continuity. This ijtiḥād cannot be a cover behind which hide robbery invitations alienating the legal Sharia rulings, although Iqbal did not

specify precise scientific controls for the fixed and changing in the Islamic jurisprudence. He has alerted to an important issue, which is still to lacking of deep scientific studies.

(1) Abdulrahman Ibn Khaldun, *El Moukadima*, Dar Al Kalam, Beirut, page 452-453.

(2) Reported by Al Bukhari, Volume 6, page 2676, Number (6916)

(3) This era extends from the beginning of the second century AH to the middle of the fourth century AH.

(4) See : Dr. Yusuf Karadawi, *on issues of Islam and Age*, Wahba Bookshop, Cairo, 192, page 322.

(5) See Iqbal *Islamic Thinker*, page 94-95, and it started since the 13th century AH legislative and jurisprudence signs representing a new era of Islamic legislative eras .

(6) The scholar Muhammad Iqbal, *his life and landmarks*, page 286.

(7) Muhammad Iqbal, previous reference, page 173.

(8) Muhammad Iqbal, previous reference, page 173.

(9) Same reference, page 174.

(10) Muhammad Iqbal, previous reference, page 193.

**After our extrapolation to Iqbal's thought and our practice on his terminology, we arrived at the following terminology : Iqbal's perseverance means details whereas the renewal means all Islamic legislative appearances so it deals with the general rules.*

(11) *The Islamic Thought and its Relationship to Modern Colonialism*, page 420.

(12) See Dr. Hifat Muhammad Al Charkaoui, *The Religious Thought Facing Ages*.

(13) Muhammad Iqbal, previous reference, page 197.

***With the Seal of Prophecy, the door of revelation closed and the door of interpretation opened. No Prophet appeared after Mahomet but some reformers - and here are that who dared claim prophethood, so history wrote he was an impostor - and then a person is no longer led from outside, and any external effects to direct him (the revelation) it is too late, but the opening of the door of interpretation is to keep pace with life in all its areas.*

(14) Muhammad Iqbal, previous reference, page 189.

(15) Muhammad Iqbal, the same reference, page 189-190.

(16) Muhammad Iqbal, previous reference, page 202.

****This is what we call mental laziness among the later jurists because they do not have the legislative tools again, and the revival of the revitalized, renewed spirit of Islam.*

****The Prophet, may God's blessings be upon him, says « The Koran will come early the Day of Resurrection » and it's almost a beautiful summary to the world of renewal old dresses referred to by Iqbal.*

(17) See Abdul Karim Zidane, *Al Wadjiz Fi Usul Al Fiqh*, The Letter Establishment, Beirut, 1985, page 151.

(18) Muhammad Iqbal, previous reference, page 190.

(19) Muhammad Iqbal, previous reference, page 193.

(20) See *Al Wajiz Fi Usul Al Fiqh*, page 161.

(21) See Muhammad Saïd Ramadan Al Buti, *Researches of the Book, Wa Sunnah*, Damascus University, p. 33-46.

**** *God Said (in Surat 25, Verse 45) Any movement of the Universe in the perception of Islam is a renewal movement with the God's will and it is not static. The astromers prove that all components of the universe are in constant motion from the simplest component of an atom to the farthest point in the galaxy. And for this, the call of Koran must be in harmony with the movement of the universe like the device and its guide (catalogue). If the universe was a device, then the guide is the Koran. And what is the most appropriate and accurate description other than that of Al Buti that (catalogue) matches his device it was intended to. Islam is the sanctuary of mankind.

(22) See Dr. Yusuf Al Karadawi, *The Entry to the Prophetic Sunna*, (without editing place and date), page 150-180

(23) Muhammad Iqbal, previous reference, page 199.

(24) Emir Baad Chah, *Facilitating Editing*, Mustapha Al Babi Al Halabi Printing House, Egypt, 1351 AH, 223/4, And Abu Hamid Al Ghazali, *the Seeker*, Bulak Edition, Egypt, 1322 AH, 173/1.

(25) The same reference, page 202.

(26) See Warki Dine Chabane, *The Diffence in the Companion Authenticity*, Secrets Reveal, 937/3, *Usul Islamic Fiqh*, Renaissance Editing House, Cairo, 1067-1968, page 204.

(27) Ibn Al Hadjib, *Ultimate Abbreviation*, Egypt, page 147.

(28) Muhammad Iqbal, previous reference, page 203.

(29) Same reference, page 203-206.

(30) Same reference, page 168-179.

*****The School of Hijaz is called The School of the Text, The hadith, the Mark.

(31) It is customary known that the facts of life are renewing constantly but not endless and that the texts are finite and limitless, so how does the finite (the text) comprehend the infinite (the events), all living legislations resort to measurement and seen that Islam is the most living legislation, so it is the most accomodating of them and based on measuremnt .

(32) Muhamad Iqbal, previous reference, page 187.

*****The Prophet, May God's Blessings be Upon Him, said « Pilgrimage is Arafat.»

*****Cheikh Muhammad al Ghazali supports this meaning as he says : « Jurisprudence has shrunk where it should have expanded, and have expanded where it should have shrunk».)

(33) Muhamed Iqbal, previous reference, page 187

*****Western modernity sees that there is no absolute truth, and if it is no truth, then everything is negotiable and everything is relative, and this is what is fundamentally inconsistent between the Islam's preaching view and the balance between absolute facts non negotiable, and relative facts which are a fertile field for diligence, change and renewal .

*****the Constants are the Facts which are denied by Wertern Modernity.

(34) Muhamad Iqbal, Eternity Message, page 140.

(35) Muhammad Iqbal, previous reference, page 205.

*****Many thinkers are impressed by the beginning of Ataturk (political and reformative !), more than this, the poet Ahmad Chawki described him as an eternal Turkish saying « Oh eternal Turkish renew eternal Arabs, and he didn't survive this prank, even the scholar Abdelhamid Ibnou Badis, then when the Islamic thinkers discovered the reality turned against him and demonstrated the falseness of his call.

(36) Mohammad Iqbal, previous reference, page 176.