What's the point of Uṣūl al-fiqh? Literalism in modern Shiīī legal theory

Abstract:

Every now again, a Shiīī jurist writes, in his work of uṣūl al-fiqh, that the answer to a particular problem has no effect beyond the genre of uṣūl and the discussion of the topic is purely "academic" (ʿilmī). He (or occasionally she) usually means by this that whether we answer a question in one way or another, it makes no difference to the fiqh. One such instance is the existence of legal literal meanings (al-ḥaqāʾiq al-sharʿīyya). Whether the discussion of these types of meanings of words is anything more than "academic" (a term which is sometimes used to mean "irrelevant and useless" in English) has divided Shiīī jurists in the modern period. I will look at this dispute and see what (if anything) it tells us about the role (if any) of uṣūl in the law making process.

Bio:

Professor Robert Gleave is the Professor of Arabic Studies in the Institute of Arab and Islamic Studies at the University of Exeter. His research interests include: Hermeneutics and Scriptural Exegesis in Islam; Islamic Law, in particular works of Islamic legal theory (usul al-fiqh); Violence and its justification in Islamic thought; and Shiʿism, in particular Shiʿī legal and political theory.

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