

INTRODUCTION TO SHARIAH (PART 2 OF 2)

Rating:

Description: The lessons cover the basics of Shariah and fiqh that are necessary to understand the workings of Islamic rules and regulations.

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Objectives:

- To learn the definition of *fiqh* and its relationship to *Shariah*.
- To compare and contrast *Shariah* and *fiqh*.
- To learn about the “five” rulings of *fiqh*.
- To understand the six stages of the evolution of *fiqh*.
- To appreciate the general and specific qualifications of a Muslim jurist (*faqih*).
- To learn about the major seats of learning in the Muslim world.
- To learn about the major *fiqh* councils in the West.

Arabic Terms:

- Faqih* (pl. *fuqaha*) – Muslim jurist (jurists).
- Fiqh* - Islamic jurisprudence.
- Hadith* - (plural – *ahadith*) is a piece of information or a story. In Islam it is a narrative record of the sayings and actions of Prophet Muhammad.
- Haram* - Forbidden.
- Makruh* - disliked.
- Maslahah mursalah* – public interest.
- Mubah* - permissible.
- Mustahab* - recommended.
- Qiyas* – analogy.

·*Shariah* - Islamic Law.

·*Sunnah* - The word *Sunnah* has several meanings depending on the area of study however the meaning is generally accepted to be, whatever was reported that the Prophet said, did, or approved of.

·*Wajib* - obligatory.

Shariah is the confirmed rules that Allah has legislated in the Quran, *Sunnah*, and other sources which branch out of them.



Fiqh (Islamic jurisprudence), on the other hand, is defined as knowledge of the practical rules of *Shariah* which are derived from the detailed evidence in the sources.^[1]

Therefore, *Shariah* is the goal, *fiqh* is the path. *Fiqh* is contained in specialized books and encyclopedias. It is a compilation of rules and regulations.

Fiqh includes practical religious matters that are well-known in Islam. These consist of rules conveyed in a clear text. Two examples would be the duty to pray five daily prayers and the prohibition of alcohol. They are definite and clear. *Fiqh* also includes many practical details of religious matters that are speculative. Does bleeding invalidate ablution? In ablution, is it required to wipe the entire head or only part of it? Answers to such detailed questions can be found in books of *fiqh*.

What is the Relationship Between *Shariah* and *Fiqh*?^[2]

1. ***Shariah* is the actual rules revealed by Allah.** There is no contradiction or conflict between them. It is binding on all Muslims. As for *fiqh*, it is derived by the scholars of Islam known as *fuqaha* (jurists) from the texts of *Shariah* or other methods such as *qiyas* and *maslahah mursalah*. These deduced rules may or may not agree with the *Shariah*. In other words, when a scholar is correct in his understanding, *Shariah* and *fiqh* are in agreement. When a scholar makes a mistake, *Shariah* and *fiqh* separate. *Shariah* does not exist in a vacuum. It is found within *fiqh*.^[3]

2. ***Shariah* is complete, *fiqh* is not.** *Shariah* is mostly general principles and maxims from which guidance for all aspects of our daily life is deduced. *Fiqh*, on the other hand, is the opinion of scholars in many cases. For the most part *Shariah* provides guidelines which are elaborated in *fiqh*.

3. *Shariah* is general and addresses all human beings unlike *fiqh*.

4. ***Shariah* is binding whereas parts of *fiqh* are not binding.** *Fiqh* provides relevant answers to its contemporary society for a specific place. *Shariah* is time

and place independent. *Shariah* mostly provides general directives whereas detailed solutions to particular and unprecedented issues are developed in *fiqh*.

5. ***Shariah* is perfect whereas *fiqh* is not.** *Shariah* does not contain errors since it is considered divine revelation, but *fiqh* can sometimes be wrong as it is a human endeavor and a product of reasoning.

Rules of *Fiqh*

Rules of *fiqh* are categorized on a scale of five values:

1. *Wajib* (obligatory): what is required upon a Muslim, like the five daily prayers.
2. *Mustahab* (recommended): what a Muslim is encouraged to do, like fasting on Mondays and Thursdays.
3. *Mubah* (permissible): what is left up to a Muslim to do or leave, like picking a certain food or drink.
4. *Makruh* (disliked): what is better to leave for a Muslim, like praying while food is being served.
5. *Haram* (forbidden): what a Muslim is prohibited from, like adultery and theft.

The Stages of the Evolution of *Fiqh*

Fiqh was developed over the course of time across different geographical areas of the Muslim world. Its evolution over a span of 1400 years can be classified into six stages [4]:

1. Foundation: era of Prophet Muhammad, may Allah praise him, 609 - 632 CE.
2. Establishment: era of the Righteous Caliphs, 632 - 661 CE.
3. Building: era of Umayyad dynasty, 661 CE - 8th century.
4. Flowering: era of rise and decline of Abbasid dynasty, 8th century - middle of 10th century.
5. Consolidation: from decline of Abbasid dynasty to murder of last Abbasid Caliph, 960 CE - middle of 13th century.
6. Stagnation & Decline: from sacking of Baghdad to the present, 1258 CE - now.

Qualifications of a *Faqih* (Muslim Jurist)

The three basic qualifications of an Islamic scholar who specializes in *fiqh* are:

1. Knowledge of Islam from its sources: Quran, *Sunnah*, consensus, and juristic analogy (*qiyas*).
2. Understanding the prevailing circumstances of society to be able to cope with contemporary issues properly.
3. Piety and good intention.

More specifically, a *fiqh* specialist scholar (*faqih*) has knowledge of:

- Arabic language and its sciences.
- verses of legislation in the Quran and their explanation.
- *ahadith* of legislation and their interpretation.
- can differentiate between authentic and weak *ahadith*.
- knows what verses and *ahadith* are abrogated and which continue to be operational.
- can distinguish between the general and the specific, the unrestricted and the restricted, the different degrees of clarity of wordings.
- knows the opinions of scholars on the issues, where they differ and where they agree.
- knows how *qiyas* is made.
- understands how to sort out conflicting evidence.
- understands the goals of the *Shariah* and their different priorities.

Major Seats of Learning in the Muslim World

The major institutions of learning in the Muslim world are Al-Azhar University in Egypt, Zaituna University in Tunisia, Imam Muhammad ibn Saud University in Saudi Arabia, Umm Darman University in Sudan, Islamic University of Madina in Saudi Arabia, and Dar ul Uloom Deoband in India. Many Muslim scholars are either trained there, or institutions affiliated or influenced by these centers.

Major *Fiqh* Councils in the West

There are several major Islamic *fiqh* councils which consist of well known Muslim scholars from around the world. The most famous ones are in Mecca, Jeddah, Cairo and India. The three major *fiqh* councils for Muslims living in the West are Assembly of Muslim Jurists of America, European Council for Fatwa and Research, and Fiqh Council Of North America.

Footnotes:

[1] *Al-Madkhal ila al-Shariah wa Fiqh al-Islami* by Dr. Umar al-Ashqar, p.36

[2] *Al-Madkhal ila al-Shariah wa Fiqh al-Islami* by Dr. Umar al-Ashqar, p.42-43

[3] *Madkhal li-Dirasa al-Shariah al-Islamiyya* by Yusuf al-Qaradawi, p. 22

[4] The Evolution of Fiqh by Dr. Bilal Philips p. 17-18.

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