

Quran & Sunnah

As Sources of Fiqh

Primary Sources of Fiqh

- **Quran – The Book of Allah**
- **Sunnah – Teachings of the Prophet (s)**
- **Ijma – Consensus of the scholars**
- **Qiyas – Logical Deduction from primary Principles**

Quran as a Source of Islamic Law

- **Less than a third of the Quran focuses on law.**
- **Two types of law in the Quran:**
- **Explicit – Shariah, unchangeable, agreed upon.**
- **Implied/Derived – Fiqh, subject to difference of opinion.**
- **Each madh'hab has its own approach to deriving Fiqh from the Quran.**

The Madh'habs & The Sunnah

- **Hanafi – Only accept highest level of authenticity, especially in modifying meanings of the Quran.**
- **Maliki – Considered practice of the people of Madinah as the Sunnah, preferred it over Hadith.**
- **Shafi'ee – Utilized any authentic Hadith in Fiqh.**
- **Hanbali – Utilized even weak Hadiths in Fiqh.**
- **Dhahiri – Takes Hadith very literally.**

Contemporary Approaches to the Sunnah

- **Quranist – Rejects Sunnah, follows only Quran.**
- **Taqlīd – Follows the madh'habs, only uses Hadith when it agrees with the madh'hab.**
- **Modernist – Criticize Hadith on basis of rational.**
- **Ahl-Hadith – Take Fiqh directly from authentic Hadith**
- **Reformer – Utilize Usul al-Fiqh to understand Hadith.**

Factors to consider when studying the Sunnah

- **The authenticity of the Hadith.**
- **The level of strength of the Hadith.**
- **How did the Sahaba understand the Hadith.**
- **Is the Hadith abrogated or modified by later revelation?**
- **Is the Hadith a form of revelation?**

Types of Hadith – Ibn Ashur's Categories

- **Revelation** – Clearly discusses theology or Shariah.
- **Fatwa** – Rules for a specific case or individual.
- **Judgment** – Arbitrating between two or more people.
- **Political** – Describes political decisions of the Prophet.
- **Recommendation** – Suggest something better.
- **Reconciliation** – Advising people to reconcile.

Types of Hadith – Ibn Ashur's Categories

- **Advice** – Advice given to an individual who requested it.
- **Counselling** – Advice given to an individual without request.
- **Spiritual Development** – Advice given to a companion to help them reach higher levels of faith.
- **General Advice** – Given to the ummah for improvement.
- **Admonition** – Warning against bad manners or character.
- **Cultural/Non-Instructive** – General Descriptions of how the Prophet (s) lived within his culture.

Hadiths on Child Custody

- **Three conflicting Hadiths here: Father's right, Mother's right, Child Chooses**
- **Classical opinions – each madh'hab chose one Hadith and made that the standard position of their madh'hab.**
- **Ibn Ashur's Approach – The Prophet (s) gave different verdict in each case because each family's situation is different. Therefore, the Shariah does not have a standard position on child custody, it is decided case-by-case.**

Hadith on Isbaal

- Kings of the past used to wear long flowing robes to show off their wealth, so the Prophet (s) prohibited dressing like this out of arrogance.
- Hanafi Position – Wearing Garments below the ankles is prohibited.
- Shafi'ee Position – Wearing Garments below the ankles is only prohibited when it is done out of arrogance.
- Causes of difference of opinion: Different narrations of the Hadith, Difference of opinion on how to reconcile between the Hadiths.

Hadith on Traveling without a Guardian

- **The Prophet (s) prohibited for a woman to travel without a guardian.**
- **Majority Position – It is prohibited for a woman to travel without a male guardian.**
- **Minority Position – It was prohibited due to the dangers of travelling at that time. Therefore, the prohibition is only for traveling during times/places of explicit danger.**

Hadith on Music

- **Dhahiri Position** – All Hadiths on this topic are weak, therefore music is halal.
- **Majority Position** – Due to the single authentic Hadith in Sahih Bukhari, string and wind instruments are prohibited. (They differed on percussion instruments)
- **Al-Ghazali, al-Nablusi** – The Hadith in Sahih Bukhari is contextual, so it only prohibits music that is accompanied by vice, not all music.

Conclusion

- Quran and Sunnah form the basis of Fiqh, but majority of Fiqh comes from the Sunnah.
- The Sunnah is necessary for deriving Fiqh rulings. It is not possible to have Fiqh without it.
- However, scholars differ in how they approach the Sunnah as a source of Fiqh, and whether to take it literally or not.
- Furthermore, they differ regarding which Hadiths are authentic, legislative, authoritative, abrogated, or modified by another.
- Resulting in various opinions based on one set of evidences.