



## The Development of the Science of Usul Al-Fiqh (Islamic Jurisprudence) in Mowarounnahr

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### **Abstract**

This article discusses the development of the science of “Usul al-Fiqh” in Uzbekistan. There is also information about the science of jurisprudence, the formation of the term “jurisprudence”, the object of “Usul al-Fiqh”, the first schools of jurisprudence, the right to *ijtihad*, jurisprudential schools, the Mowarounnahr School of jurisprudence.

**Keywords:** *Quran; Sunnah; Fiqh; Revelation; Islam; Jurisprudence; Muslim; Society; Science; Culture; Law; Companions; School; Sect*

### **Introduction**

“*Ilm-ul Fiqh*” is a science of law that studies various areas of Islamic law. The science of *fiqh* is a specific science that deals primarily with religious issues. In the dictionary, the word “Al-Fiqh” means “to understand with the mind, to comprehend” [Islam. (1991) *Encyclopedic dictionary*: 254-259]. In the term, it means “Islamic law.” The science of jurisprudence is referred to in the West as Islamic Law, Muslim Law (in English), *le Droit Muslim* (in French), and *Islamische Gesetz* (in German). Unlike the norms of secular law, *fiqh* also covers more matters of worship. This can be compared to the Talmud, which summarizes the prayer issues of the Torah. *Fiqh* also discusses some property, civil, and other issues between people in civil society. This, in turn, brings *fiqh* closer to jurisprudence. It is this aspect that has led to different interpretations among scholars of the history of state law and Islamic scholars studying religious law.

### **The Main Findings and Results**

There are major branches of jurisprudence called “*furu al-fiqh*” (“branches of jurisprudence”), which develop practical religious rules for Muslims, and “Usul al-Fiqh” (“basics of jurisprudence”), which studies the methods of extracting practical rules from sacred sources. [Abdulvahob Xallov: 50-51].

There are major branches of jurisprudence called “*furu al-fiqh*” (“branches of jurisprudence”), which develop practical religious rules for Muslims, and “**Usul al-Fiqh**” (“Fundamentals of Fiqh”), which studies the methods of extracting practical rules from sacred sources (*istinbot*) [Abdulahob Xallov: 50-51].

The science of jurisprudence began to take shape among the scholars of the ummah. Previously, it meant the mental understanding and interpretation of the divine book. In this sense, in the early period, *fiqh* (mental understanding) was the opposite of knowledge (metaphorical understanding). Gradually, a science was formed that discussed the practical issues of Islam, and it was called *ilm al-fiqh*. In the period after the death of the Prophet, the territories of the Arab state expanded rapidly. It included Andalusia (Spain), North Africa, Egypt, Syria, Iraq, Iran, Khorasan, Mowarounnahr, India and other countries. [Hallaq: 16-27] Issues of Islamic practice in regional schools of jurisprudence began to develop rapidly. Their traditions differed under the influence of the environment in which they operated and the local culture. Independent jurisprudence centers have sprung up in distant lands. Among them were Iraq (Kufa, Basra), Egypt, Damascus, and the Hijaz (Madinah, Mecca), where large Arab armies were stationed. The customs, needs, and conditions of these local centers varied. When dealing with new issues (*ijtihad*), each *fiqh* would adopt a different solution (*fatwa*). All this paved the way for the emergence of different sects in certain countries.

During the first period of development, the scope of issues related to jurisprudence, the tradition of studying them into specific chapters and chapters was formed. At the same time, *fiqh* took its place among the Islamic sciences.

The beginning of the movement of hadithists (traditionalism) opened a new era in the development of the science of jurisprudence. The idea that only a message narrated from the Prophet on the basis of a special technique (hadithists technique) had a sacred (religious) significance immediately changed the old rules in the field of religious sciences. The rise of traditionalism during the eighth century marked a turning point in the field of kalam and jurisprudence. Previously adopted rules required consideration on the basis of new requirements. Al-Shafi'i's *Ar-Risala* played an important role in this work. It is based on the methodology of resolving the contradictions between the *metaphorical* and *mental* methods, the relationship between the sacred texts. With this, the science of method *al-fiqh* was born. “*Ar-Risala*” put an end to the contradictions and disagreements between the “Ahl al-Hadith” and “Ahl al-Ray” groups that have hitherto been conducted among the scholars of jurisprudence. The transition from regional schools to personified sects began. The number of Sunni sects decreased in the IX-X centuries, and in the XII-XIII centuries, by mutual agreement (*ijma*) of the scholars, they were declared four. At the same time, the unrealistic idea that the *gates of ijtihad* were closed was spread [Muminov: 1999, 40-44].

Many works have been written in this regard, including the first books on jurisprudence, “*Al-Mutawwa*” by Imam Malik ibn Annas, “*Majmoo 'al-Fiqh*” by Zayd ibn Hasan, and “*Al-Musnad*” by Ahmad ibn Hanbal.

The most famous work in the field of jurisprudence is the book of our compatriot Burhaniddin Ali ibn Abu Bakr ibn Abduljalil al-Fargani al-Marghinani *ar-Rishtani* “*al-Hidoya fi al-Furu*” (guidance on the field of jurisprudence).

In the late eighth and early ninth centuries, the Hanafi sect began to spread in Mowarounnahr. In Bukhara and Samarkand, the Mowarounnahr School of jurisprudence was formed on the basis of the teachings of this sect. The faqihs of Mowarounnahr gained great fame in the Islamic world with their deep knowledge and valuable works. The influence of the faqihs on the ruling circles of the state and the masses of the people was very strong. Problematic issues encountered in religious life have been resolved through faqihs. Due to the fact that jurisprudence covers various aspects of the life of the individual, family and society, the representatives of the Mowarounnahr School performed the task of analyzing the

traditions and customs of the peoples of this region from a general Islamic point of view. Through the activities of several generations of Mowarounnahr faqihs, the historical and legal traditions of the local peoples were reflected in Islamic culture.

In the VIII-X centuries in some cities of Mowarounnahr scientific centers based on Hanafi appeared. The Bukhara school was founded by Abu Hafs Ahmad ibn Hafs al-Kabir al-Bukhari (d. 832). Abu Muqatil as-Samarkandi, Abu Bakr al-Juzjani, al-Ataki had a great influence on the formation of the Samarkand Scientific Center. During this period, the fiqhs of Bukhara focused mainly on the practical issues of fiqh (*furū' al-fiqh*), while the Samarkand faqhs focused their scientific work on the subject of theology (*usul ad-din*).

By the XI-XIII centuries, the development of jurisprudence reached a high level. [Schacht: 34-40] The faqihs of the Qarakhanid period (999-1212) achieved the status of classics of the Hanafi School by creating royal works at the level of Islam. Indeed, Mowarounnahr was the “fortress” of the Hanafi School. The families of Sadr, ar-Rigdamuni, az-Zaranjari, al-Mahbubi, as-Saffar, al-Pazdavi, Samarkand sayyids, al-Hayzahazi, al-Aqili, and al-Marghinani gained a strong position in science and social life.

Abu Zayd al-Dabusi (d. 1037 BC), al-Halwa'i (d. 1056), al-Sarakhsi (d. 1088-1089), al-Pazdavi were among the faqihs of Mowarounnahr who worked in the XI-XIII centuries. (d. 1089), as-Sadr ash-Shahid (d. 1141), Abu Hafs an-Nasafiy (d. 1142), Alo' ad-din as-Samarkandiy (d. 1144-45). ), Burhan ad-din al-Kabir al-Bukhari (d. 1174-75), al-Attobi (d. 1190), al-Qasani (d. 1191), Qazikhan (d. 1196). ) and Burhan ad-din al-Marghinani (d. 1197). [Abu Yusuf Ya'qub: 15-32]

So, the first source of *usul al-fiqh* is the Qur'an. The Qur'an is a divine (sacred) book revealed by Allah to the Prophet Muhammad in the form of verses and suras over a period of about 23 years. This book is the sacred source of Islam. According to the teachings of *Ahl as-Sunnah wa-l-Jamaa*, one of the schools of Islamic theology, the Qur'an is the word of Allah and its eternal knowledge.

The word “Qur'an” is derived from the Arabic verb “qara'a” (to read). According to another view, it is derived from the Syriac word meaning “kerain” – “sacred writing”. One of the characteristics of the Qur'an is that its wording and meaning are from Allah. The Prophet (peace and blessings of Allaah be upon him) was only a reader and a communicator [Muminov: 1994, 37-40].

There are three types of rules and norms in the Qur'an:

1 - Rules and norms related to belief: this includes what a wise person should believe. Belief in Allah, His angels, His books, His prophets, the Day of Judgment, His resurrection after death;

2 - Rules and norms related to ethics. It shows how a person should be adorned with good manners and how far he should stay away from bad, bad manners.

3 - Rules and norms applicable to practice. These are the rulings given to the deeds and words of man, in other words, the *fiqh* of the Qur'an.

“Sunnah” means “Way” in Arabic. That path, good or bad, is called *circumcision*. The Sunnah consists of a set of words, deeds, actions, affirmations of the words (deeds) of Muhammad (peace and blessings of Allaah be upon him), as well as the words and deeds of his Companions. The narrations about the Sunnah are given in the hadiths. The collection of hadiths is called *sunnah*. The hadith is derived from the Arabic word *narration*, which is the most sacred source in Islam after the Qur'an. [Muminov: 1999, 40-44] The hadiths are narrations about the life, activities and instructions of Muhammad (peace and blessings of Allaah be upon him). Since the Qur'an did not cover all the legal and moral issues of the Muslim community, the hadiths began to be written in the late seventh and early eighth centuries and were gradually systematized. In the IX-X centuries there were 6 collections of

hadiths, which are considered authoritative among the believers. These are Muhammad al-Bukhari's "Al-Jame' al-Sahih", Muslim An-Nishapuri's "As-Sahih", Ibn Majah's Sunan, Abu Dawud al-Sijistani's hadith, Muhammad al-Termizi's "Al-Jame' al". The book "Kabir" is the book "Sunnah" by An-Nisani. Of these, Sahih Bukhari and Sahih Muslim are the most respected. Our compatriot Imam Muhammad ibn Ismail Bukhari (810-892) made an unforgettable contribution to the collection of the Sunnah and the hadiths of the Prophet and separating them from the collective hadiths, leaving eternal and lasting works. Many hadiths explain and supplement the various rules of the Qur'an. They play an important social role in solving many practical problems, and the hadiths become even more important when nothing is said about them in the Qur'an. However, if the hadiths contradict the Qur'an, they have no source power [Schacht: 1950, 21-56].

The traditions of the early caliphs were of a legal nature and were associated with the prestige of our Prophet. Since the tenth century, the six famous collections of Sunni mentioned above reflect Islamic traditions. Islamic practice coordinated them so much that the hadiths contained in all six collections had the status of sacred law. According to Islamic scholar A.Sh. Juzjani, research scholars study the Sunnah in two ways.

The first type is that if a work is to be done, the idea of that work is conveyed to the Prophet by revelation by the Creator. The prophet describes it in his own words. The difference between this revelation, that is, the revelation of the Qur'anic verses, that is, the revelation of Jali, is that both the content and the wording of the verses of the Qur'an were sent by Allah through Gabriel [Hallaq: 16-27].

The second type of Sunnah is that if there is a need to introduce something new in the life of a Muslim, but there is no revelation to the Prophet to resolve it, then the Prophet is allowed to perform ijthihad, that is, to resolve the matter on the basis of his own opinion.

The Prophet had the authority to interpret (legislate) the Qur'an as a commentator. Accordingly, Sunnah covers two main areas of tashri (legislation). The first area is related to the elucidation of the rulings mentioned in the Qur'an. The second area is related to the interpretation of the rulings that are not mentioned in the Qur'an.

In the first field, the Sunnah interprets and interprets the verses of the Qur'an, explains the ambiguous phrases, characterizes what has a general meaning, and makes a reference to the absolute, that is, the unconditional verses. Some examples: The Qur'an commands "Pray" but the number, quality and number of rak'ahs of the prayers are determined by the Prophet and shown in practice, which is an example of the interpretation of ambiguous expressions [Schacht: 1964, 34-40].

An example of the specificity of its general content: In the Qur'an, the system of inheritance came in a general sense, but the Prophet (peace and blessings of Allaah be upon him) made it a condition of religious unity, not to be murderers and not to be slaves, in order to inherit. For example, a child who kills his father or causes him to die unjustly loses the right to inherit from his father.

The second area is the debate over the Sunnah: Any new ruling that is not mentioned in the Qur'an when necessary is determined by the Sunnah. At this point, some of the rulings came from the Prophet through a secret revelation (a situation similar to inspiration), and some came from his ijthihad and personal opinion. For example: the condition of witnesses for the marriage contract to be valid.

3. Over time, the Qur'an and the Sunnah have not fully covered the situation and problems of the Muslim community. They have not been able to fully respond to all the problems and situations that have arisen in the Muslim community. Thus, there is a need for a new source of Shari'ah and ijma 'is affirmed as one of the main sources of Islamic law. Ijma (Arabic-novelty) is the gathering of faqihs and mujtahids to issue a fatwa in order to resolve a legal issue that is not clearly stated in the Qur'an and the hadiths. Judgment rendered in this way in the Shari'ah is accepted as Shari'ah (lawful). The view of ijma as a

source of jurisprudence originated in the period when feudalism began to take shape in the Arab Caliphate (late VIII-early IX centuries). Only the opinion expressed by the mujtahid is a decisive opinion. The opinion of ordinary Muslims has nothing to do with the community. A mujtahid is a religious scholar. A mujtahid (Arabic - aspiring, zealous) is a person who had the right to ijtihad in Islam in the Middle Ages, that is, who was able to independently draw conclusions and make judgments on religious matters. In Sunnis, the founders of religious law schools, in Shiites, high-ranking clerics and religious jurists are called mujtahids. Mujtahids must have a reputation among Muslims. The Shari'ah also defines other qualities of a mujtahid, such as his complete knowledge of the Arabic language, his strict adherence to the Shari'ah, his deep knowledge of the modern world, and so on.

The Egyptian scholar Abdul Wahhab Khallaf describes ijma as follows: The lexical meaning of ijma is "revenge". The reason why the association of mujtahids is called ijma 'is that they consider this ruling to be a shar'i ruling. The scholars of the method, on the other hand, define ijma 'as follows: The union of the mujtahids, who are Muslims, at a time after the death of the Messenger of Allah (saas), is called "ijma". [Schacht: 1950, 21-56]

It is clear from the definition that in order for there to be ijma ', there must be four pillars: first, it must be from the mujtahids, the union of non-mujtahid scholars is not ijma'; second, they must be Muslims; thirdly, it must be after the death of the Prophet (peace and blessings of Allaah be upon him) because all the Shari'ah matters addressed to the Prophet (peace and blessings of Allaah be upon him) during his lifetime, as well as consensus alliance will be by the majority, consensus will not occur from one person, fourthly, consensus the matter to be done must be a Shari'ah matter, such a consensus is not made in secular matters.

This means that if the ruling on an event after the Prophet (peace and blessings of Allaah be upon him) is not found in the Qur'aan or the Sunnah, the mujtahids of that time will be asked for a shar'i ruling on the matter. The consensus issue cannot be the subject of ijtihad for the mujtahids of the next period for the second time. Because the ruling that is fixed by consensus is firm, it is not possible to oppose it and make it naskh (annul the ruling).

In the early days of Islam, the followers and followers of Muhammad (peace and blessings of Allaah be upon him) paid great attention to the community. In all cases, this notion has been defined and confirmed in relation to the religious-legal issue: the consensus was made after the unanimous consent of the scribes.

4. Qiyas is the fourth source of fiqh. Comparison is derived from the Arabic word, which means "contrasting," "comparison." Hence, a legal issue that is not given in the Qur'an and Sunnah is therefore interpreted by comparing it with the instruction given on a similar issue in them. Qiyas expanded the rights of the faqihs and made it possible for the Shari'ah to be applied to various legal issues [Qodirov: 20-43].

The recognition of qiyas as the fourth classical source of jurisprudence stems from the hadith. It is narrated that when Muhammad (peace and blessings of Allaah be upon him) one day sent one of his Companions, Mu'adh ibn Jabal, to teach religion in Yemen, he asked him what he would rely on in administering justice. He replied, "By the Book of Allah. If I do not find it, I will do ijtihad, and I will try not to make mistakes in ijtihad." The Prophet (peace and blessings of Allaah be upon him) seemed to approve of such an idea. Ijtihad is derived from the Arabic words "aspiration" and "zeal" and is the principle of independent thinking on religious and legal issues. In the middle Ages, only the great Muslim jurists and reformers, the mujtahids, had the right to ijtihad. In the tenth century, when Sunni Shari'a sects were formed and Islamic teachings were developed, the "doors of ijtihad were closed," and it was believed that reform, law, morality, and social teachings could only be imitated by previous reformers. The concept of imitation came to the fore. Since the end of the 19th century, Islamic religious reformers

have re-established the right to *ijtihad*, believing that any Muslim who is well versed in the Qur'an and Islamic teachings can perform *ijtihad*.

Comparison, as a legal term, is the process of comparing a matter of uncertainty with a matter of clear judgment and transferring the judgment of the second case to a matter of uncertainty in the presence of a common cause. Then if the second issue is in accordance with Islamic law, then the first issue is also legal or vice versa [Muminov: 1999, 40-44].

The method of comparison is widely justified, especially by Abu Hanifa and his followers, the Hanafis. The analogy was opposed by the Hanbalis. Shiites, on the other hand, did not recognize analogy as a source of law at all.

The science of *Usul al-Fiqh* has gone through various stages of development as a multifaceted science. In order to fully master this science, which has a simple appearance, but is very complex and rich in content and essence, it is necessary to critically study its long history, deep roots, main sources, ideas, priorities and currents in a scientific way [Goldziher: 13-17].

1. *Fiqh*, science and other Shari'ah sciences, mysticism, ethics, and their comprehensive terms based on the Qur'an and the Sunnah were studied.
2. In writing this work, after the formation of Islamic law, the teachings of the Hanafi School were spread through Abu Hafs Kabir Bukhari (768-832). We have shown that he brought up a group of great jurists, including his son Abu Hafs Saghir, and made Bukhara the center of jurisprudence.
3. The second center of jurisprudence and the Hanafi School in the territory of Uzbekistan was the city of Samarkand. Abu Bakr Juzjani, a student of the famous jurist and hadith scholar Abu Sulayman Juzjani, the first teacher of Imam Abu Mansur Moturidi, was found to have made a great contribution to the dissemination of this teaching as a prominent representative of the Hanafi School.
4. Islamic law is a set of authoritative, necessary rules of conduct, morality, religion, law. Islamic law embodies philosophy, and legal ethics is embodied in the science of jurisprudence. It is based on the fact that the science of jurisprudence has also developed through the efforts of great scholars and legal thinkers.
5. At the heart of mystical teaching is the idea of understanding the essence of man, rescuing him from the abyss, elevating the spiritual aspects of his soul, and elevating him to the status of a perfect human being.

## **Conclusion**

The radical change in attitudes toward history because of independence has changed our history; we have had the opportunity to study the history of the states and religions formed and developed in our homeland objectively, the ideological beliefs objectively. The centers of jurisprudence in Uzbekistan are Bukhara and Samarkand [Islam. (1991) *Encyclopedic dictionary*: 254-259].

Abu Hafs Ahmad Ibn Hafs al-Kabir al-Bukhari (832), one of the classic disciples of Muhammad Ibn Hasan Shaybani, was the first to return to his homeland in the early ninth century as a true bearer of the teachings of this sect. A group of jurists under him, including his son Abu Hafs Saghir Muhammad Ibn Ahmad Ibn Hafs, who was a sheikh and a potential representative of the Hanafi school in his time, reached the rank of high jurist.

Abubakr Juzjani, a well-known student of the famous jurist and muhaddith Abdusulayman Juzjani in Samarkand, a great teacher of Abu Mansur Moturidi, made a great contribution to the spread of jurisprudence in Uzbekistan as a prominent representative of the Hanafi School.

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