



THE MAIN SOURCES OF ISLAMIC LAW AND THEIR SIGNIFICANCE

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Today, we have an opportunity to find out the deep foundations of our national statehood, to study our great culture and rich legal traditions of the past.

It is the honorable duty of each of us to preserve and appreciate our sacred religion, which embodies our age-old values and moral virtues. Islam means understanding the truth, it encourages people to do good deeds, calls each of us to goodness and peace, teaches to be a real person.

From the time Islam spread in the territory of Uzbekistan, and the local population became the only religion, until it was conquered by Tsarist Russia, legal relations were regulated by the norms of Islamic law. For this reason, it is impossible to imagine the legal history of the state of Uzbekistan without thoroughly studying the nature of Islamic law as a separate legal system, its sources, stages of development.

As one of the world religions, Islam has been an integral part of the spiritual outlook of many peoples for centuries. The fact that religion, including Islam, has existed stably for thousands of years indicates that it has left a deep mark on human nature and that it fulfills a number of unique tasks.

The peculiarity of Islam is that it embodies both religious and worldly power at the same time, a single book defines faith, customs, and even law, and the firm will of the creator is also expressed in a single book. Islam is not only a religion, but it is an independent legal culture that is expressed in various spheres of social life, including regulating various relations in society. This legal culture is one of the great achievements of human development and is an integral part of the world legal map.

Fiqh, which is one of the sciences of Sharia, is essentially Islamic law in its broadest sense.

According to sources, "the science of jurisprudence is the complete knowledge of one's rights and duties as a member of society." Here, society means family, city, or state. So, according to this definition, we can say that a person's in-depth knowledge of marriage and family law, civil matters, as well as administrative-legal relations in the family is the basis of jurisprudence. "If a person has skill and experience in this science and has knowledge about marriage, divorce, trade, rent, gift and other relationships, he is called a jurist." In order to become a "faqih", that is, a scholar of jurisprudence, it is not enough to simply and superficially know and memorize the rulings of Sharia, but it is necessary to know all the reasons and wisdom of these rulings and to understand the foundations of Sharia. Therefore, a person who knows the rules of Sharia in a simple way is not called a jurist, even if he is called a scholar. Fiqh scholars say that there is a difference between science and jurisprudence that not everyone understands. That is, science is used in a general sense, and jurisprudence is used in a specific sense. Therefore, every jurist is a scholar, but not every scholar is a jurist. In fiqh books, according to Imam Abu Hanifa, it is said that "the science of jurisprudence is knowing what is beneficial and harmful to a person." According to this definition, the field of jurisprudence is very wide. Since the science of jurisprudence is an endless sea, according to the verse in the Holy Qur'an: "Let a group of people from each of their sects return to them, they should understand the religion well and warn their people." It was pointed out that it is necessary to learn step by step, one by one, and that it can be achieved with great effort, as well as the fact that the study of this subject is a voluntary effort.

It is known that the first source of Islamic law is the Holy Qur'an. As a religious-legal complex, it has a strong influence on the fate of a large part of humanity. The legal system is reflected in the Qur'an, and it is a comprehensive sacred, divine book that closely intertwines religious and legal issues.

The second source is the Sunnah, that is, the words, deeds and interpretations of the Prophet Muhammad (pbuh).

The third source is ijma', which refers to the unanimous acceptance of a matter by scholars who lived at the same time and reached the level of ijthihad.

The fourth source is called qiyas, and it is ruling by comparing an issue for which there is no ruling to something similar to this issue in the Qur'an and Hadith, and there is a ruling for it. "For example, if a mujtahid is asked for a Shariah ruling on a matter, he first looks for an answer from the Holy Qur'an, and when he finds it, he makes a ruling

based on it. If he doesn't find it, then he turns to the Sunnah Nabawiyyah. If it is not found, then after the death of the Prophet, after the death of the Prophet, if the mujtahids came to a unanimous opinion on that question, they will issue a verdict with that answer. If there is no such consensus, the mujtahid, in order to issue a shari'i verdict on the case, will find an answer by comparison - by scientifically approaching the answers given in the shari'a regarding cases similar to this case, comparing them in all aspects, using all his knowledge. The authenticity of these four main sources and their coming in this order is evidenced by Surah An-Nisa, verse 59 of the Holy Qur'an: "O you who believe, obey Allah and obey the Prophet and obey the leaders from among you (i.e. Muslims). If you cannot agree on the answer to a matter, then refer that matter to Allah and His Messenger. If you have faith in Allah and the Day of Resurrection, it is the best and most auspicious thing to do." In this verse, "obedience to Allah" should be understood as following the Qur'an. Obedience to the Messenger means following the Sunnah; When it is said to obey your superiors (ulul amr), it is understood to follow the scholars. Hazrat Abbas interpreted Ulul Amr to scholars. But it means to compare the matter on which we could not agree with Allah and the rulings of His Messenger, that is, to compare.

The science of jurisprudence did not appear with the birth of Islam, but was fully formed by the 10th century. The methodology of jurisprudence began to take shape in the first half of the 7th-9th centuries. During this period, two of his schools emerged: one of them was the "Ahl al-Hadith", that is, those who pay more attention to hadiths and verses, and the "Ahle Ray", that is, the school of those who judge by opinion and comparisons apart from hadiths and verses.

The supporters of "Ahli Ray" were mainly in Iraq, and its founder was Abu Hanifa. Abu Hanifa Nu'man bin Thabit, who lived in 669-767, was an unprecedented great figure in the history of Islamic jurisprudence. He was an unparalleled jurist, one of the most mature scholars among Islamic scholars. The Hanafi sect, founded by Imam Abu Hanifa, emerged in the center of the city of Kufa, Iraq, and spread in many countries of the Islamic world in a short period of time. Abu Hanifa's greatest students were Imam Abu Yusuf and Imam Muhammad Ibn Hasan ash-Shaibani. As a result of their writings and activities, Hanafiism spread widely.

Imam Abu Yusuf (113-182 A.H.) was a distinguished student of Abu Hanifa, a great jurist and mujtahid, and the Qazil-Qazza of the Abbasid state. His famous works are: "Kitab ul-khiroj", "Kitab ul-asor", "ar-Raddu alo Siyaril-Avza'i" and "Disagreements between Abu Hanifa and Ibn Abi Laila".

Imam Muhammad ibn Hasan al-Shaybani was the second distinguished and advanced student of Abu Hanifa. His important works are six jurisprudential works called "Al-Usul" or "Zahirur-Rivaya", which include: "al-Mabsut", "az-Ziyadot", "al-Jami' as-Sagiyr", "al-Jami' al-kabiyr", "as-Siyarus sagiyr", "as-Siyarul kabiyr". "Zahirur-riwaya" books were collected by al-Hakimush-shahid in a book called "al-Kafi". Muhammad ibn Ahmad as-Sarakhsi wrote a commentary on this collection in 30 volumes in the 11th century. Later, this work formed the basis of "Majalla".

One of the supporters of "Ahl al-Hadith" was Abdullah ibn Abdurahman As-Samarkandi ad-Dorimi (798-869), a scholar from Samarkand who lived in the 9th century. He revealed the issues of fiqh in his unique style in his work "Sunan". He divided the work into jurisprudential chapters and included jurisprudential issues and rulings in the titles of these chapters. In the work, 3503 hadiths of the Prophet Muhammad (pbuh) are presented in a total of 1306 chapters, introduction and 23 books. The difference of "Sunan" from other jurisprudential works is that the author collected only hadiths related to jurisprudential issues and gave his ijthad opinions without commenting on them.

The science of jurisprudence is divided into two main parts: usulul-fiqh and furu'ul-fiqh. Usulul-fiqh is learning the rules that determine the ways of deriving rulings from the main sources. Furu'ul-fiqh is a set of legal rulings extracted from the main sources through the rules and methods specified in usul-ul-fiqh, and it forms branches or fields of the science of fiqh. According to the sources, the branches of jurisprudence are:

1. Munakahot, that is, as a family member, a person is considered to have rights and duties, and this includes matters of marriage, divorce, consent, allowance, inheritance and will.
2. Transaction is knowledge of rights and duties as a member of the city or state, and includes issues such as wealth (trade), rent, guarantee, transfer, deposit, gift, partnership.
3. Laws established in order to implement and prevent violations of the laws of the Uqubat part of the transaction and munakahot.

First, fiqh was mentioned in Muhammad ibn Shaybani's work "al-Mabsut". It was also called "al-Asl", that is, the main book. Due to the great importance of this work, using its style, many jurists from Central Asia wrote multi-volume books with this name. In particular, Sarakhsi's work "al-Mabsut". Sarakhsy is considered one of the great scholars of Movaraunnahr who mastered method and furu. His book "al-Mabsut" written in 15 volumes is an important work written on furu'ul fiqh. This work was written in Beirut in 2001 in the order of 30 books (volume 15), and issues related to civil affairs are reflected in various books. For example, trade issues are covered in the 12th book, gift and lease issues are in the 14th book, warranty and authority books are in the 19th book, pledges and company issues are in the 21st book, and the usurpation book is in the 22nd book. When a topic is covered in the books, first the dictionary translation and meaning of the words related to that field are explained. Then he gives proofs from the Holy Quran and hadiths that it is Shariah. For example, according to the definition of the "Book of Powers of Attorney" presented in volume 10, book 19, "Power is the transfer of the right of disposal to another and the giving of any property to someone for its disposal. People often need such a contract, for example, when a person goes on a trip, he is unable to protect his property, and because of the abundance of property, his distance from it,

and the fact that he is not busy with it, he is forced to hand it over to another person. Then, the following verses are cited as proof of the legality of this contract: In the 19th verse of Surah Kahf, it is said, "Now send one of you to the city with this money of yours," and it is implied that a person is given money and authorized to buy a certain thing. In verse 220 of Surah Al-Baqarah, "They will ask you about the (rights) of orphans." Say: It is good to reform them. If you add (to your goods) their goods (there is no harm), they are (indeed) your brothers. Allah knows the (difference) between the corrupter and the reformer" and also in the 152nd verse of Surah An'am, "Do not approach the property of an orphan until he reaches adulthood, except in a beautiful way (if it is correct). It is said that the measure and the scales are filled with justice" and these verses are interpreted in the book of authority, they are cited as evidence for obtaining the authority to dispose of the property of orphans, and through them it is shown in detail how this type of authority is regulated. In addition, after providing evidence from hadiths that authority is shari'a, how legal relations related to authority are regulated in Islamic law will be described.

The jurist Alauddin al-Samarkandi, who lived and created in the first half of the 12th century, called "Tuhfat al-fuqaho" is one of the works written on jurisprudence. Alauddin al-Samarkandi takes a unique approach to solving jurisprudential issues in his work, that is, he is one of the first to create collections of fatwas of previous and contemporary jurists. According to the tradition of that time, the author, when solving jurisprudential issues, first shows those related to prayer, and then to the parts of treatment. In the work, Alauddin Samarkandi compares Hanafia theories with the opinions and evidences available in the sources in solving each issue. He solves the conflicting issue from the point of view of Hanafi, and when solving an issue, after evidence from verses and hadiths, the opinions and arguments of the mujtahids who are the masters of the school are stated. According to the content of the work "Tuhfat al-fuqaho", it mainly served as a guide for jurists, judges, mudarris. It is dedicated to the existing problems and issues in the field of jurisprudence and society. This work was the stylistic basis of Burhoniddin Marginani's work "Hidaya" written in the second half of the 12th century.

The work "Hidaya" by our Great Compatriot Burhoniddin Marginani (1123-1197) is also an important work written on fiqh. Marginani's immortal legacy, especially the book called Hidayah - The Right Way, has been recognized as the most authoritative and perfect legal source in Muslim countries for centuries. "This work, as the most important and perfect legal source of the Hanafi sect in the Sunni stream, consists of 57 books, 165 chapters, and 152 chapters, and covers all areas of jurisprudence, except the law of inheritance. The reason why Burkhanniddin Marginani did not include the right of inheritance is that Imam Azam Abu Hanifa separated the problems of inheritance from the science of jurisprudence as an independent science and called it the "science of fariz".

When writing the book "Hidaya", Burhoniddin Marginani faced the difficult task of studying hundreds of legal collections and fatwas written by different authors and finding answers to existing legal problems based on them. They contained thousands of issues, dozens of opinions on some specific problems, and even conflicting theories. He selected the most vital and necessary narrations from them, proved their correctness with intellectual arguments, strengthened them with narrative arguments, penetrated deeply into the text and content of classical works, and defined their legal works. Burhoniddin Marginani created a unique and irreversible style in writing the book "Hidaya". In the book "Hidaya" the solution of the legal issues is first given by the statement of the great scholars of jurisprudence and the objections or additions of other authors to it. Based on the opinions of these eminent jurists, the way of choosing the best way in certain legal issues was followed. In this way, not only the exact expression of the law, but also its perfect review is based on it.

Hidayah is the most reliable source for studying the teachings of the Hanafi sect, the legal culture of the East, and the history of jurisprudence.

By the 16th century in India, on the order of Aurangzeb Alamgir, the great jurists of his time were called to compile the laws on various issues of Hanafi jurisprudence. They left the work "Fatavoyi Alamgiriyy" or "Fatavoyi Hindiya". Written in Arabic under the special instructions and orders of Aurangzeb, this source, known as "Al-Fatovo al-Hindiya", was written with the participation of a scientific panel consisting of 24 famous jurists of the Babur era, and jurisprudence was organized in a classical style. "Fatavoy Alamgiriyy" consists of four volumes and contains three and a half thousand pages. It is written on the basis of the most important and authoritative jurisprudential works and fatawas, and the requirements of the time and the requirements of the era are considered. It covered all areas of Islamic law and was called "al-Faroz" by Abu Hanifa, and the issues of inheritance, separated as an independent science, are given in detail under the title "Kitab-ul-Faroz" at the end of the fourth volume. Fatawa consists of 58 books, each book is divided into different chapters and chapters. The number of chapters reaches 700. Each chapter provides solutions to legal problems related to a specific area. A unique feature of the work is that, based on the vital needs and demands of the Indian Muslim community, great attention is paid to practical life in various fields. Some scholars have described this work as "the legal code of the Baburi state". But this is conditional and is not considered a source codified according to the European style.

In conclusion, we can say that the norms of Islamic law, which were created on the basis of the main sources of Islamic law, do not consist of rigid and immutable rules, but have developed over the centuries in accordance with their time, and have the ability to respond to the problems arising from the demands of the times in different periods with their own characteristics.

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