

## WHAT IS *USUL AL-FIQH*?



The literal meaning of *usul al-fiqh* is “roots” or “foundations” (*usul*) of Islamic jurisprudence and understanding (*fiqh*). It is the field that studies the proofs, bases, evidences (*adillah*) and sources of Islamic law. Without “roots”, there would be no deep understanding, grounding and no well-directed development of the field of Law or Jurisprudence (*Fiqh*). While the study of *Fiqh* focuses on the “trunk and branches” (or laws), the study of *Usul al-Fiqh* focuses on the “roots and foundation” of the “tree” of *Fiqh*.

Using a mathematical metaphor, *Fiqh* focuses on the study of results and answers, while *Usul al-Fiqh* focuses on the study of the equations and how they are derived. While *Fiqh* dwells more on conclusions, *Usul al-Fiqh* dwells on the methodology of how those conclusions are arrived at, which evidence is used and how certain we can be about their authority. *Usul al-Fiqh* tells us more objectively how deep-rooted, strong and well-grounded the evidence actually is for particular position of *Fiqh* or law in each context.

- ***Usul al-Fiqh* refers to the well-organized, all-inclusive and organically structured legal methodology** for extracting legal judgments from the established legal sources, namely, the Qur’an and the Sunnah of the Prophet Muhammad (ﷺ).<sup>1</sup>
- Technically, *Usul al-Fiqh* means “the fundamental principles of Islamic law.... (It) expounds **principles and methodology by means of which rules of law and jurisprudence**

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<sup>1</sup> Wan Azhar Wan Ahmad, *Public Interests (Al-Masalih Al-Mursalah) in Islamic Jurisprudence: An Analysis of the Concept in the Shafi’i School*, ISTAC & IIUM, Kuala Lumpur, Malaysia, 2003, p.91.

are inferred and extracted from their sources. It involves the study and formulation of rules of interpretation, obligation, prohibition and global principles, *ijtihad*.”<sup>2</sup>

- *Usul al-Fiqh* provides the ground-rules for **respectful interaction between sound reason and revelation**.
- *Usul al-Fiqh* generates **consistent methodologies of interpretation of Islamic sources that regulate the practice of *ijtihad*** (juristic reasoning) used by a jurist (*mujtahid*)<sup>3</sup> or School of Juristic Thought (*madhhabs*).<sup>4</sup>

*Ijtihad* refers to the intellectual endeavour by individual jurists to extract solutions to individual and societal problems that are not explicitly addressed in the texts of the Qur’an or Sunnah. It is the vehicle by which rules of behavior not explicitly addressed to new and evolving situations are determined. It is what a *Mujtahid* does. *Ijtihad* is exercised through the earlier consensus of jurists (*ijma’*), analogy (*qiyas*), juristic preference (*istihsan*), public interest (*maslahah*), and customs (*‘urf*), etc.

According to Kamali, “*Ijtihad* is the most important source of Islamic law next to the Qur’an and the *Sunnah*. The main difference between *ijtihad* and the revealed sources of the *Shari’ah* lies in the fact that *ijtihad* is a continuous process of development whereas divine revelation and prophetic legislation discontinued upon the demise of the Prophet. In this sense, *ijtihad* continues to be the main instrument of interpreting the divine message and relating it to the changing conditions of the Muslim community in its aspirations to attain justice, salvation and truth.”<sup>5</sup>

- *Usul al-Fiqh* is a **science that enables contemporary legal verdicts (*fatwas*)** to be issued by councils of scholars who are responsible for responding to contemporary challenges.<sup>6</sup>

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<sup>2</sup> Tariq Ramadan, *Radical Reform: Islamic Ethics and Liberation*, Oxford University Press, Oxford, 2009, p.360.

<sup>3</sup> See the qualifications of a *mujtahid* in the discussion on “Scholars and their Specialisations” in Lesson 43.

<sup>4</sup> *Ibid.*; Abdul Hakim Murad, *Understanding the Four Madhhabs*, The Muslim Academic Trust, Cambridge, 1999; Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence*, the Islamic Text Society, Cambridge, 2003, p.1-4

<sup>5</sup> Muhammad Hashim Kamali, *Principles of Islamic Jurisprudence*, the Islamic Text Society, Cambridge, 2003, p.468.

<sup>6</sup> Musa bin Muhammad bin Yahya al-Qarni, *Murtaqa al-Usul Ila Tarikh Ilm al-Usul*, p.5, Madina, 1414 AH

- It is a science that facilitates the analysis and evaluation of *fatwas*, to **ensure that the Prophet (ﷺ) is accurately represented by a scholar or jurist** (*faqih*<sup>7</sup>, *mujtahid* or *mufti*).<sup>8</sup>
- *Usul al-Fiqh* is, therefore, a science which **ensures that the Ummah is protected from fanciful interpretations and heretical innovations** (*bid'ah*).

According to Professor Mohammad Hashim Kamali,

The principal objective of *Usul al-Fiqh* is to regulate *ijtihad* and to guide the jurist in his effort at deducing the law from its sources. The need for the methodology of *Usul al-Fiqh* became prominent when unqualified persons attempted to carry out *ijtihad*, and the risk of error and confusion in the development of *Shari'ah* became a source of anxiety for the *ulema*. The purpose of *Usul al-Fiqh* is to help the jurist to obtain an adequate knowledge of the sources of *Shari'ah* and of the methods of juristic deduction and inference. *Usul al-Fiqh* also regulates the application of *qiyas*, *istihsan*, *istishab*, *istislah*, etc., whose knowledge helps the jurist to distinguish as to which method of deduction is best suited to obtaining the *hukm shar'i* of a particular problem. Furthermore, *Usul al-Fiqh* enables the jurist to ascertain and compare strength and weakness in *ijtihad* and to give preference to that ruling of *ijtihad* which is in close harmony with the *nusus*" (i.e., texts of the Qur'an and *Sunnah*).<sup>9</sup>

So, while *ijtihad* is WHAT the jurist does, *Usul al-Fiqh* guides or regulates HOW and WHY it is done.

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<sup>7</sup> A specialist in Islamic Jurisprudence (*Fiqh*)

<sup>8</sup> Ibn Qayyim, *I'lam al-Muwaqqi'in*, vol. 1, p.10

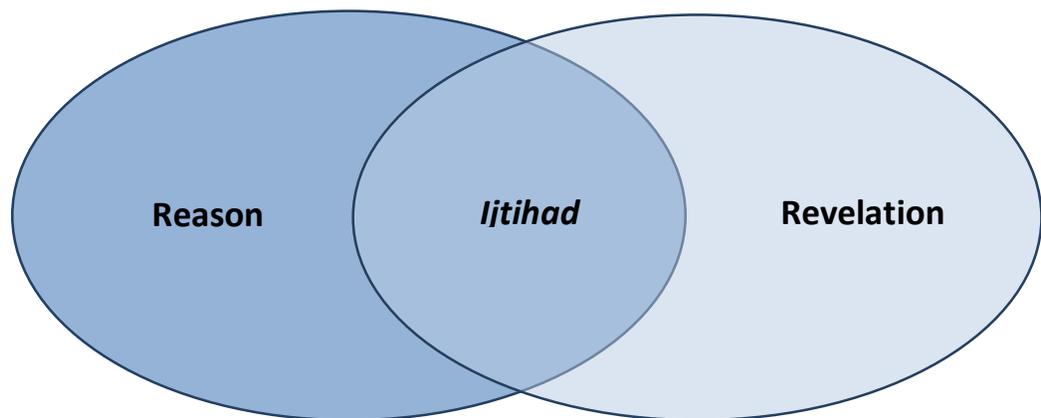
<sup>9</sup> Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence*, the Islamic Text Society, Cambridge, 2003, p.4

## Reason and Revelation: Eyes and Light

**Imam Abu Hamid al-Ghazali** described the relationship between reason and revelation as similar to that between the eyes and light. To insist on using ones' intellect or reason without the aid of revelation is similar to a person moving around with their eyes open but in the dark. In a similar vein, to insist on following the guidance of revelation without the assistance of reason, is similar to a person moving around in broad daylight, with their eyes shut. Both reason and revelation are gifts from Allah to guide us, so both should be used together to gain true insight.

The synthesis of reason and revelation is the basis of *ijtihad*, and *ijtihad* is regulated by *Usul al-Fiqh*.

From this perspective, *Ijtihad* is seen as the point of convergence between *reason* and *revelation*.



- In *Fiqh*, we learn the values or rulings regarding desirability (e.g. compulsory, recommended or merely permissible) or undesirability (e.g. discouraged or forbidden) that Islamic Jurisprudence or law places on various beliefs and actions – “the Shari’ah Rulings” - *al-Ahkam al-Shar’iyyah*. This will be covered in more depth in Lesson 5.

- *Usul al-Fiqh* enables scholars to **deduce with a reasonable degree of certainty what level of desirability or undesirability** to assign to every aspect of our lives, based on the guidance of divine revelation (Qur'an), its implementation in the life of the last Prophet (i.e. the *Sunnah*) or *Ijtihad*.

So, while the study of *Fiqh* (and *fatwahas*) focuses on the “answers” and “verdicts”, *Usul al-Fiqh* focuses on the “equations” and how they are derived and applied under various contexts.

### Role of Sound Reasoning

In the “Islamic Sciences” sound reason and critical thinking play a very important role in at least 5 major areas or fields:

1. The verification of the historical authenticity and reliability (*thubut*) of information/revelation – What is the source of this information? Is it really from God or from His Prophet? (The Sciences of the Qur'an and Hadith – *Ulum al-Qur'an and Ulum al-Hadith*).
2. The understanding of the meaning and implications (*dilalah*) of the language of revelation - What exactly did the Legislator (Allah) or the Prophet (p) mean or imply by the statement? What is expected of us to conclude and do in view of such a text? (The Sciences of the Exegeses of the Qur'an and commentaries of Hadith and the Principles of Islamic Jurisprudence – *Usul al-Tafsir, and also Ulum al-Qur'an, Ulum al-Hadith and Usul al-Fiqh*).
3. The appreciation of the wisdom (*hikmah*) and purposes (*maqasid*) of revelation - What virtue is the text meant to achieve, promote or preserve, and to whose benefit? (The Principles, objectives and Higher Intent of Islamic Law – *Maqasid al-Shari'ah*).
4. The thoughtful and correct application of its guidance to achieve its objectives in specific contexts (*fiqh al-waqi', ijtihad, etc.*); What is the wisest and most appropriate ruling for this context and reality? Is this in any way an exception to the rule or not? (The Sciences of the Maxims of Islamic Jurisprudence – *Ilm al-Qawa'id al-Fiqhiyyah*)

5. The defence of truth against falsehood using better arguments, rhetoric, logic and superior reasoning. How sure are you that this or that argument and conclusion represents the objective truth? What is the best and most reasonable method of proving or falsifying a particular point? (Islamic Theology and Philosophy – *Ilm al-Kalam and Ilm al-Tawhid*).

#### DISCUSSION QUESTIONS:

1. What is meant by the term *Ijtihad*?
2. What is meant by *Usul al-Fiqh*?
3. What is the relationship between *Usul al-Fiqh* and *Ijtihad*?
4. What is the difference between *Fiqh* and *Usul al-Fiqh*?
5. What are some goals of *Usul al-Fiqh*?
6. Explain why *Usul al-Fiqh* is important.
7. Why can it be detrimental to engage in *Fiqh* without understanding *Usul al-Fiqh*?
8. Explain Abu Hamid Al-Ghazali's metaphor for the relationship between reasoning and revelation.
9. Discuss at least 5 roles of sound reasoning in the Islamic Sciences.
10. What is an example of a contemporary issue that warrants an Islamic legal ruling?
11. Have all online *fatwas* been developed using the formulations of *Usul al-Fiqh*?