



Islam, Judaism, and Zoroastrianism

2018 Edition

| Editors: Zayn R. Kassam, Yudit Kornberg Greenberg, Jehan Bagli

Fiqh

- Ismath Ramzy (2) Email author (ismathramzy@gmail.com)
- Golam Dastagir (1) (2)

1. Department of Philosophy, Jahangirnagar University, , Savar, Bangladesh
2. Centre for Civilisational Dialogue, University of Malaya, , Kuala Lumpur, Malaysia

Reference work entry

First Online: 06 July 2018

DOI: https://doi.org/10.1007/978-94-024-1267-3_2054

- [3.Downloads](#)

Synonyms

Islamic jurisprudence (https://doi.org/10.1007/978-94-024-1267-3_100299);
Islamic laws (https://doi.org/10.1007/978-94-024-1267-3_100300); Jurisprudence
(https://doi.org/10.1007/978-94-024-1267-3_100071); Shari'ah laws
(https://doi.org/10.1007/978-94-024-1267-3_100302); Understanding the rules of
Shari'ah (https://doi.org/10.1007/978-94-024-1267-3_100303)

Definition

Fiqh in Islam is known as “Islamic jurisprudence,” one of the dynamic disciplines, dealing with the practical regulations and rules of the *shari'ah*, such as observance of worships, rituals, and social legalism derived from the primary sources of the Qur'an and *sunnah*. In other words, *fiqh* is the legal dimension of Islam and increased expansion of the *shari'ah* laws. *Fiqh* can best be defined as the study of the “science of the Divine Law” in Islamic jurisprudence. It embraces variant approaches and develops in the context of different culture and tradition, while applying the methodologies and applications of God's revelation. *Fiqh* envisages the efforts of jurists to understand and to practice the will of God and His guidance in the interface of individual, societal, communal, and civilizational settings.

Meaning of *Fiqh*

Fiqh is an Arabic term derived from the root word *faqiha*, meaning “deep and comprehensive understanding.” The Arabic literature has used the word “*fiqh*” and its substracts in seeking of knowledge, wisdom, and in-depth understanding of Islamic laws. For instance, the Qur’ān uses the substract of *fiqh* to narrate the story of Prophet Moses who prayed to God for the comprehension of his speech (Q. XX: 27–28). The Ḥadīth too has used it in the similar sense where the Prophet Muḥammad is reported to have said: “Whoever Allāh intends good for, He will grant him *fiqh* (deep understanding) of the Deen” ([3], Ḥadīth No. 2645). An Islamic scholar involved in *fiqh* is designated as *faqīh* (pl. *fuqahā’*), or jurist.

Historical Development

In early Islamic period, *fiqh* was used to mean comprehensive understanding of Islam including Islamic thoughts (*‘aqīdah*) and the practices (*sharī‘ah*). For instance, Imām Abū Ḥanīfa (699–767 C.E./80–148 A.H.) named his book on Islamic thoughts (*‘aqīdah*) as *Al-Fiqh Al-Akbar (The Great Fiqh)* [6]. However, later on the usage of the term *fiqh* was confined to the rulings of actions in the *sharī‘ah*. Mohammad Abu Zahrah, for instance, defined the term ‘*fiqh*’ in his book *Uṣūl al-Fiqh*, meaning “principles of jurisprudence” [1]. This means that *fiqh* does not refer to *sharī‘ah*; rather, it only refers to the understanding of actions of the *sharī‘ah* laws.

As the basic source of *fiqh*, the Qur’ān holds a large number of metaphorical, allegorical, and historical passages, as well as statements of moral principles and religious injunctions that require to be understood basically with the supports of Ḥadīth (Prophetic traditions) and *ijtihād* (individual reasoning). Considering the source and method, the development of *fiqh* as a separate discipline in the history of Islam can be classified into five stages, such as Foundation, Establishment, Building, Flowering, and Decline.

The Foundation stage (609–632 C.E.) was initiated in the lifetime of the Prophet Muḥammad, during which the Qur’ān and *sunnah* became known as the prime sources of the *sharī‘ah* from which the rules of *fiqh* were eventually deduced.

Second, the era of the Righteous Caliphs (632–661) is considered the Establishment stage during which the newly conquered Muslim world expanded to Africa and Asia and encountered complex legal issues that required Muslim scholars to have recourse to *ijtihād* (individual reasoning in accordance with *sharī‘ah* principles), since these were not explicitly mentioned in the Qur’ān and Ḥadīth. Thus, the collection of the *ijtihād* or consensus (*ijmā’*) was included in the sources of *fiqh*.

Third, the Building Era comprises the Umayyad dynasty (661–750 C.E.) that marked the territorial expansion and administrative problems with little or no scope of consensus (*ijmā’*). Therefore, *al-qiyyās* (similarities between the new and the old cases treated in either the Qur’ān or Ḥadīth) was introduced in the source of *fiqh*. Furthermore, *adāt* (local customs and traditions), *istihsān* (juristic preference of approval), *maṣlah* (benefits acknowledged by the *sharī‘ah*) were included on the list of the sources of *fiqh*.

Fourth, the Abbasid dynasty (750–1258 CE) is known in the development of *fiqh* as the florescent stage, as it became an independent discipline in this period. The method of using the sources of *fiqh* to extract the rules gave birth to numerous schools of *fiqh* known as *madhabs* (schools of Law) in this period.

Finally, the period since the fall of Abbasid dynasty till today can be described as the Decline stage for *fiqh*. Many jurists felt that essential questions in *fiqh* had been thoroughly discussed and finally settled by the time the authority of *fuqaha* was truncated following the Mongol invasion and the fall of Islamic empire in Baghdad (1258 C.E.). This view basically shut down the door of *ijtihad* on the ground that either there might not be anyone with the necessary qualifications to use *ijtihad*, or no *ijtihad* would be necessary in the future as new *fiqh* issues would have to be confined to the explanation, application, and, interpretation of the doctrine [9].

Despite the fact that scholars like al-Shatibi (d.1388 C.E.), Jalal al-Din al-Suyuti (1445–1505 C.E.), Abd al-Jabbar (935–1025 C.E.) and Abu Husayn al-Basri (d.1085 C.E.) opposed this majority consensus, many Muslim '*ulamā*' defended the majority consensus and stuck to *taqlid* (following a scholarly view). This preservation of precedent not only became great obstacle to development of *fiqh*, but also caused it to appear in modern times as irrelevant and foreign to Islamic practice.

Importance of *Fiqh* in Islam

As Muslims are required to prove their conviction in the faith by actions, it is obligatory for each of them to be familiar with the fundamentals of Islam including its practices. Therefore, in early Islamic period, *fiqh* was considered most noble and worthiest field of study. Ibn al-Qayyim (1292–1349 C.E.) describes the people who study *fiqh* as most honorable, comparing the role of jurists (*fuqahā*) with that of a king's ambassador who is fully aware of the value of responsibility for Muslims and accountability to God. As a result, Muslim scholars until the medieval period dealt fundamentally with the knowledge of *fiqh*. The religious schools (*madāris*, pl of *madrasah*) that were founded in many parts of the world to promote Islamic knowledge and sciences emphasized the study of *fiqh* in the curriculum.

Fiqh and the *Sharī'ah*

Fiqh should not be confused with the *sharī'ah*. The former refers to the ruling of actions laid down in the sources or its circumstance, while the latter to the entire revelation and laws enshrined in the Qur'ān and reflected in *sunnah*. Considering the historical perspective, the *sharī'ah* can be defined as static and fixed, while *fiqh* is subject to change according to the circumstances and contexts. While the *sharī'ah* encompasses more general framework of the principles of Islam, *fiqh* is case-specific, and therefore, varies according to jurists' discretion. Since *fiqh* deals with the body of the legal views from the sources of the *sharī'ah*, it has a more technical legal meaning than the *sharī'ah* that includes moral laws [8].

Fiqh and Maḏhabs

The scholars of *fiqh* differed from each other as to juridical decisions, for they used different methodologies to interpret the text of the Qur'ān and the Ḥadīth from which the *fiqh* regulations were consequently derived. These methods in line with the principles of *sharī'ah* (*maqasid al-sharī'ah*) is known as the methodology of *fiqh* (*uṣūl al-fiqh*), or “Science of Islamic Law.” Such methodologies as *qiyās* (analogy), *istihsān* (juristic preference), *istishāb* (presumption of continuity), and *'urf* (customs and traditions) were prominent [4] in the process of interpreting the Qur'ān and *sunnah*, as a result of which diverse “Schools of Law” or *maḏhabs* came into existence, which were consolidated by the beginning of the tenth century. Even though different approaches and methods led to the variation of legal interpretations, almost all the jurists (*fuqahā*) had at least one thing in common—following a specific method consistently based on a Ḥadīth: “If a Mujtahid is correct (in an Islamic ruling or opinion) he accumulates two rewards, and if he was to make a mistake, he then accumulates one reward” ([7], Ḥadīth No 1716).

As mentioned, numerous schools (*maḏāhib*) of thought in relation to *fiqh* emerged over time, which were codified in the eighth and ninth centuries [8]. Of these, four have survived and grown over the centuries in the traditional body of *Sunni Islam*, namely the Ḥanafī, Mālikī, Shāfi'ī, and Ḥanbalī with an additional school called *Ja'fari* among the Shī'ite. The *Ja'fari* school consists of two major schools – *Uṣūlī* and *Akhbārī* with emphasis on *ijtihād*. Though the beginning of this period enjoyed a free, friendly, and flexible environment among the *maḏāhib* to exchange views on various particular issues, the later part was marred by mere hostility, conflict, and controversy. Today, most of the Muslims across the world adhere to one or another of these schools, with the Ḥanafī School founded by a Persian, Imām Abū Ḥanīfa having the largest number of followers in the Sunni world, particularly those of the Indian subcontinent including most Sunni Turks [8].

It is pertinent to note that following the death of the founding legislating Imāms, the ardent students of these schools of *fiqh* continued for centuries to develop their respective schools, systematizing the sophisticated techniques and traditions concerned. However, it is equally true that each school claims to be the most authentic *fiqh* school, drawing conflict among them. However, none of them attempted to pronounce legal rulings in contradiction to the Qur'ān, or the *sunnah*. Imām al-Shāfi'ī, for instance, is reported to have urged his followers to compare his legal pronouncements with Book of Allāh and the *sunnah* of His messenger before rejection [2].

Role of Fiqh

As opposed to the West, where the judiciary system is separated from religion, the Muslim world still maintains to some extent *fiqh* or *sharī'ah* to deal with religious matters. Thus, the *sharī'ah* or *fiqh* is applied in some Muslim states to all the affairs pertaining to the Islamic way of life, including its personal, social, political, and moral aspects, such as inheritance, personal and social contracts, and financial issues that are identified in the West as secular matters outside the scope of religion.

Fiqh deals mainly with the legal modes of human actions in situations that need clarification from the Islamic point of view. Thus, the classical works on *fiqh* explain the rules on the actions and their surroundings under two categories, namely worship (*‘ibādāt*), and social contracts and transactions (*mu‘āmalāt*). The injunctions in relation to actions (*‘amaliyyah*) consist of five categories, such as *fard* or *wājib* (required), *mandūb* (recommended), *mubāh* (approved), *makrūh* (disapproved), and *ḥarām* (forbidden) [5]. Rules in relation to circumstances comprise condition (*shart*), cause (*sabab*), preventer (*m’ni*), permit (*rukhsah*), enforced (*‘azimah*), valid (*ṣahīh*), invalid (*bāḥil*) and in-time (*adā*), and deferred (*qadā*).

***Fiqh* in the Contemporary World**

The beginning of the nineteenth century saw a revival trend in *fiqh*. The setback caused by the fall of the Islamic caliphate or Ottoman Empire in Turkey in 1924 was a jolt for Muslim scholars and, as expected, a new body of scholarly consensus emerged, emphasizing changes in the *modus operandi* in *fiqh* as well as Islamic thought. However, conflicting opinions surfaced over how this change should be implemented. While the modernists called for adoption of a secular form of law and severance of Islamic influence from the executives and the judiciary, the traditionalists were out to purify the *sharī‘ah* and *fiqh* by way of eliminating all the encrustations over the past several hundred years. Similarly, leading Islamist thinkers advocated for a new form of *ijtihād* in a bid to revise the *sharī‘ah* and *fiqh* with modern principles and notions. However, the Western philosophies as revealed in the cases of liberal democracy, women’s rights, and unrestrained freedom of beliefs have posed a great challenge to Islamic *fiqh* in the contemporary Muslim world. In response, considerable efforts have been made by contemporary Muslim scholars as well as *fiqh* institutions to face these challenges throughout the Muslim world. A case in point is the establishment of *Majma Fiqh al-Islami* (Islamic Fiqh Council created by the Muslim World League) – a famous institution with a mission of the revival of *fiqh* with specific focus on issues such as women’s rights, children’s rights, Islamic finance, and Muslim minority rights, to name but a few.

Cross-References

- *Ijmā‘* (https://doi.org/10.1007/978-94-024-1267-3_2066)
- *Ijtihād* (https://doi.org/10.1007/978-94-024-1267-3_1944)
- Madrasah (https://doi.org/10.1007/978-94-024-1267-3_843)
- Qur’ān Translation in South Asia (https://doi.org/10.1007/978-94-024-1267-3_863)
- Women (https://doi.org/10.1007/978-94-024-1267-3_100489)

References

1. Abu Zahrah M (1957) Usul al-fiqh. Dar al-Fikr al-Arabi, Beirut
[Google Scholar](http://scholar.google.com/scholar_lookup?title=Usul%20al-fiqh&author=M.%20Abu%20Zahrah&publication_year=1957) (http://scholar.google.com/scholar_lookup?title=Usul%20al-fiqh&author=M.%20Abu%20Zahrah&publication_year=1957)
2. Al-Nawawi (1277) al-Majmu' sharh al-Muhadhdhab, vol 1. Muhammed Najib Al-Mudi'I (ed) Dar Ehia Al-Tourath Al-Arabi, Leicester
[Google Scholar](https://scholar.google.com/scholar?q=Al-Nawawi%20%281277%29%20al-Majmu%E2%80%99%20sharh%20al-Muhadhdhab%2C%20vol%201.%20Muhammed%20Najib%20Al-Mudi%E2%80%99I%20%28ed%29%20Dar%20Ehia%20Al-Tourath%20Al-Arabi%2C%20Leicester) (https://scholar.google.com/scholar?q=Al-Nawawi%20%281277%29%20al-Majmu%E2%80%99%20sharh%20al-Muhadhdhab%2C%20vol%201.%20Muhammed%20Najib%20Al-Mudi%E2%80%99I%20%28ed%29%20Dar%20Ehia%20Al-Tourath%20Al-Arabi%2C%20Leicester)
3. Bukhari M (1997) Sahih Al-Bukhari (trans: Khan MM). The translation of the meanings of Sahih Al-Bukhari: Arabic-English. Dar-us-Salam Publications, Riyadh
[Google Scholar](https://scholar.google.com/scholar?q=Bukhari%20M%20%281997%29%20Sahih%20Al-Bukhari%20%28trans%3A%20Khan%20MM%29.%20The%20translation%20of%20the%20meanings%20of%20Sahih%20Al-Bukhari%3A%20Arabic-English.%20Dar-us-Salam%20Publications%2C%20Riyadh) (https://scholar.google.com/scholar?q=Bukhari%20M%20%281997%29%20Sahih%20Al-Bukhari%20%28trans%3A%20Khan%20MM%29.%20The%20translation%20of%20the%20meanings%20of%20Sahih%20Al-Bukhari%3A%20Arabic-English.%20Dar-us-Salam%20Publications%2C%20Riyadh)
4. Kamali MH (2005) Principles of Islamic jurisprudence. Islamic Texts Society, Cambridge, UK
[Google Scholar](http://scholar.google.com/scholar_lookup?title=Principles%20of%20Islamic%20jurisprudence&author=MH.%20Kamali&publication_year=2005) (http://scholar.google.com/scholar_lookup?title=Principles%20of%20Islamic%20jurisprudence&author=MH.%20Kamali&publication_year=2005)
5. Levy R (1957) The social structure of Islam. Cambridge University Press, Cambridge, UK
[Google Scholar](http://scholar.google.com/scholar_lookup?title=The%20social%20structure%20of%20Islam&author=R.%20Levy&publication_year=1957) (http://scholar.google.com/scholar_lookup?title=The%20social%20structure%20of%20Islam&author=R.%20Levy&publication_year=1957)
6. Maghnisawi AIM (2007) Imam Abu Hanifa's *Al-Fiqh Al-Akbar* explained. White Thread Press, UK
[Google Scholar](https://scholar.google.com/scholar?q=Maghnisawi%20AIM%20%282007%29%20Imam%20Abu%20Hanifa%E2%80%99s%20Al-Fiqh%20Al-Akbar%20explained.%20White%20Thread%20Press%2C%20UK) (https://scholar.google.com/scholar?q=Maghnisawi%20AIM%20%282007%29%20Imam%20Abu%20Hanifa%E2%80%99s%20Al-Fiqh%20Al-Akbar%20explained.%20White%20Thread%20Press%2C%20UK)
7. Muslim I (1976) Sahih Muslim (trans: Siddiqui AH). KAZI Publications, Chicago
[Google Scholar](https://scholar.google.com/scholar?q=Muslim%20I%20%281976%29%20Sahih%20Muslim%20%28trans%3A%20Siddiqui%20AH%29.%20KAZI%20Publications%2C%20Chicago) (https://scholar.google.com/scholar?q=Muslim%20I%20%281976%29%20Sahih%20Muslim%20%28trans%3A%20Siddiqui%20AH%29.%20KAZI%20Publications%2C%20Chicago)
8. Nasr SH (2004) The heart of Islam: enduring values for humanity. HarperOne, New York
[Google Scholar](http://scholar.google.com/scholar_lookup?title=The%20heart%20of%20Islam%3A%20enduring%20values%20for%20humanity&author=SH.%20Nasr&publication_year=2004) (http://scholar.google.com/scholar_lookup?title=The%20heart%20of%20Islam%3A%20enduring%20values%20for%20humanity&author=SH.%20Nasr&publication_year=2004)
9. Wael BH (1984) Was the gate of Ijtihad closed? Int J Middle East Stud 16(1):3–41
[CrossRef](https://doi.org/10.1017/S0020743800027598) (https://doi.org/10.1017/S0020743800027598)

[Google Scholar](http://scholar.google.com/scholar_lookup?title=Was%20the%20gate%20of%20Ijtihad%20closed%3F&author=BH.%20Wael&journal=Int%20J%20Middle%20East%20Stud&volume=16&issue=1&pages=3-41&publication_year=1984) (http://scholar.google.com/scholar_lookup?title=Was%20the%20gate%20of%20Ijtihad%20closed%3F&author=BH.%20Wael&journal=Int%20J%20Middle%20East%20Stud&volume=16&issue=1&pages=3-41&publication_year=1984)

Copyright information

© Springer Science+Business Media B.V., part of Springer Nature 2018

How to cite

Cite this entry as:

Ramzy I., Dastagir G. (2018) *Fiqh*. In: Kassam Z.R., Greenberg Y.K., Bagli J. (eds) Islam, Judaism, and Zoroastrianism. Encyclopedia of Indian Religions. Springer, Dordrecht

About this entry

- First Online 06 July 2018
- DOI <https://doi.org/10.1007/978-94-024-1267-3>
- Publisher Name Springer, Dordrecht
- Print ISBN 978-94-024-1266-6
- Online ISBN 978-94-024-1267-3
- eBook Packages [Religion and Philosophy](#)
- [Buy this book on publisher's site](#)
- [Reprints and Permissions](#)

SPRINGER NATURE

© 2018 Springer Nature Switzerland AG. Part of [Springer Nature](#).

Logged in as Ismath Ramzy University of Malaya UM (2000000861) - 6816 SpringerLink Malaysia eJournal Consortium - Higher Education (3000155375) - 8354 Springerlink Malaysia consortium (3000519906) - 10122 SpringerLink Malaysia eJourn Consortium - Higher Education (3000716851) - 13008 SpringerLink Malaysia eJournal Consortium – Higher Education (3001044276) - Ismath Ramzy (3003505080) 103.18.0.20