Figh 101

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Figh 101

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Figh 101

Most of the world follows one of the Madhhabs blindly based on the country they're from or their nationality.

One extreme is to follow a specific Madhhab blindly.

The other extreme is to reject all of the Madhaabs entirely which leads to one making their own rulings based on limited knowledge. This extreme also rejects the knowledge of the first 3 generations and is a foundation for deviance.

The best approach is to follow the Madhhab of prophet Muhammad (pbuh).

Figh and Shariah are both translated as Islamic law.

However, they are not one and the same.

Figh is the true understanding of what was intended (linguistically).

Figh is the study of deducing Islamic laws from evidence found in the sources of Islamic law: Quran, Sunnah, ijmah.

Usool ul-Figh is the deduction of the principles from which the laws are deduced.

From the sources you deduce principles and then apply these principles to form laws.

The sources include the shariah, ijmah (consensus), qiyas (means of deduction i.e. injtihad).

Shariah means a watering hole (linguistically).

Islamically, shariah refers to the sum total of Islamic laws revealed to the prophet, recorded in the Quran, and deductible from the prophets lifestyle (Sunnah).

Shariah is the foundation based on revelation.

Figh is the product of human reasoning, and applying the foundation to any given circumstance.

Some basic differences between shariah and Fiqh.

Shariah is the body of divine laws found in the Quran and Sunnah.

Figh is the body of laws deduced from the shariah to cover situations not directly covered by the shariah.

Shariah is fixed and unchangeable whereas Figh can be adjusted based on circumstances.

However, in some dire circumstances, Shariah can be held up. It's not that the laws have changed, but it cannot be applied at that time.

Shariah laws gives basic, general principles. Figh laws gives specific laws and is unlimited.

March 6, 2012

The origin of Shariah is revelation.

Figh is the implantation of the shariah in life.

6 Stages of Figh Evolution

Stage 1 - The Era of the Prophet

The only source for law was revelation from either the Quran or the Sunnah.

Prophet Muhammad was the law giver and the laws he made were divine revelation.

What he said, did, and approved was sufficient to make something part of his Sunnah, even if he did not do it himself.

Anything done in his presence and he approved of it and did not correct it, then that thing is accepted as part of his Sunnah. Allah allowed the Messenger to make errors at times and then corrected him afterwards. This was to remind us that he was a human being.

This revelation (the Quran) that the Messenger received came gradually over the last 23 years of the prophet's life. The revelation (of the Quran) often came as a result of problems, situations, incidents, and questions that arose during the time of the Messenger.

The laws were gradually revealed to allow the Arabs to get used to living under laws. Before this, they lived in complete freedom

The gradual revelation of laws made them easier to learn and understand.

There are also examples of individual laws that were revealed gradually, like prayer.

Revelation is divided into two categories: Mecca and Medina.

The Mecca period begins with the beginning of revelation and ends with Hijrah...

The Medina period begins with the Hijrah and ends with the Prophet's death.

During the Mecca period, the Muslims were under pagan rule.

During the Medina period, the Muslims were in charge and lived under Islamic law.

The revelation during these periods reflect the difference in circumstances for Muslims.

In Mecca, the revelation primarily stressed:

Tawheed

the existence of Allah

other civilizations

The next life

Salaah (daily prayer)

Challenge to the Arabs to produce something similar to the Quran

and worship of Allah.

90% of Islamic laws and legislation was revealed in Medina

In Medina, the revelation primarily stressed:

The prohibition of certain things (pork, alcohol, gambling, etc)

The laws concerning punishments (adultery, stealing, etc).

The permissibility of Jihad.

Dealing with the Christians and Jews.

Dealing with the hypocrites.

Three basic areas of studying the Quran:

Aqeedah: belief in Allah, His messengers, the scriptures, the angels, etc.

Akhlaq: The reformation of character, purifying the heart, being righteous.

Figh: Issues related to external things, social laws, marriage, criminal laws.

The Figh in the Quran deals with two things:

Laws governing how humans should deal with Allah.

Laws governing how humans should deal with other humans and the creation.

The laws governing humans and Allah:

Pure worship like salaah,

Social acts of worship like zakat and charity

Physical acts of purity like fasting, Hajj.

The laws governing dealings between humans address:

Family laws.

Property laws and business transactions.

Criminal laws to protect family and property.

Promoting and defending Islam (Jihad); promoting good and forbidding evil.

March 9, 2012

The basis of legislation in the Quran:

Islam did not come replace existing human society with a completely new system.

Instead, it came as reformation of human society.

Some aspects were cancelled, like alcohol.

The Quran commands us to do that which is known to be good, and reject that which is known to be bad.

Islam is a system of building, not destruction.

The things that Islam adopted from pre-Islamic Arabia were things that were inherently good, or came from previous revelations.

Nonetheless, the things that were taken from Arabia were few, and the things rejected were many.

What was taken, was not taken in its original pagan form.

4 basic purposes about the legislation in the Quran:

1. Removal of difficulty.

Allah wishes ease for us and not difficulty.

All of the duties Allah has made for us actually make life easier.

However with every obligation, Allah has given us concessions; for example, we can shorten the prayers when traveling, and eating pork if facing starvation.

2. The reduction of religious obligations.

In regards to the Mosaic law, Islam makes things much easier.

The sin is removed for someone who is forced to do something.

We are told specifically what is forbidden. What is not mentioned is permissible.

The laws in the Quran do not contain much detail.

We are encouraged not to pry too deeply into what is permitted and prohibited.

3. Realization of public welfare.

For example, the prohibition of alcohol.

Since the Prophet pbuh was sent to all mankind, his life is a benefit for all mankind also.

The abrogation of certain laws. Some things were gradually changed because the companions were not ready for the full law in the beginning.

Laws that deal with issues that never change, do not change, for example, family law.

Laws that deal with issues that may change, may change depending in the society and time, for example the way men dress, so long as the principle is not violated.

Gives precedence of the general welfare over the welfare of one or a few individuals.

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4. Realization of universal justice.

All human beings are the same and are responsible obeying the laws of Allah and will be punished equally for breaking them.

Islamic law in its early period was the shariah.

The basis of legislation in the Quran is human reformation.

Islamic law accepts local custom where it doesn't violate Quran and Sunnah.

The ijtihad made baby the Prophet pbuh and his companions was the basis for future qiyas.

March 15, 2012

Module 5a

Second phase of Figh evolution: the establishment phase.

This phase covers the period of the 4 Righteous Caliphs.

During this period, there was rapid expansion in the Muslim world.

When Islam came into contact with these new civilizations, aspects of their culture which did not conflict with Islam were kept.

During this period, ijma' (consensus) was mostly used by the Caliphs and companions.

Also, there were very few splits within the Muslim world. This changed with the death of Ali.

662ce to 661ce

The caliphs developed problem 5 solving procedures

- 1. First, they turned to the Quran
- 2. Then they used the Sunnah
- 3. If the answer couldn't be found in the Quran and Sunnah, they then turned to the leading companions for a consensus.
- 4. If there was no consensus, then they went with majority rue.
- 5. Finally, the Caliph could use ijtihad and overrule the suggestion of the companions.

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5b

When the companions made an opinion where there was no islamic text, they would always say "if correct, this is from Allah. If not, then it is from me and Shaytan."

During this period there was no factionalism due to the following principles:

Shura - the caliph would rely on consensus to come to a conclusion.

Because the major companions were still around the major centers, it was easy to come to a consensus.

Very few companions actually gave rulings. When asked for a decision, they would usually pass it on to another scholar. The narration of hadiths was not that frequent. A relatively low number of companions related hadiths. Caliph Umar also encouraged the companions to study the Quran more than the hadiths.

The Figh of this period was mostly realistic Figh that dealt with existing problems. Very few "what if" issues.

Also, the companions did not prescribe a fixed methodology that would then create secondary code and so forth and so on. The caliphs and scholars for this time usually took the obvious meanings of the text rather than utilize personal opinion and interpretation.

During this time, the companions did suspend some elements of the shariah if the issue wasn't relevant.

It was also a unified Fiqh. The head the Madhhab was the head if the state. That is the people followed whatever the Caliph at the time ruled. Even if other companions disagreed, they would not openly oppose him.

Module 5c

Summary

The principles if ijma and qiyas were laid in this period.

Figh began to develop rapidly to expansion of the Muslim state.

The companions left the process of making rulings to the leading companions.

There was only one Madhhab.

The companions were tolerant with each other when they differed in opinions.

This era was an extension of the Prophet's (pbuh) era.

The obvious meaning of the text was usually taken.

Module 6a

The third stage of the evolution of Figh is the stage of building.

This stage generally includes the period of the Umayyad dynasty, which was about 100 years.

This period was known for social unrest, factionalism, innovations, and monarchism.

Because of these issues, many leading scholars refused to sit with the caliphs, resulting in a break between the leadership and scholarship.

Scholars began to settle in the outlying areas, making consensus difficult.

The use of Hadith increased.

There were attempts to compile Islamic law and the beginnings of Madhhabs.

In general, there were 4 major factors from above that influenced the evolution of Figh:

- 1. Division of the Ummah.
- 2. Deviation of the Ummayad caliphs.
- 3. Dispersion of the scholars.
- 4. Fabrication of hadiths.

Division of the Ummah.

There were two major factions that developed in this time, the Khawarij and the Shia.

The Khawarij declared Ali and Muawiyyah as disbelievers.

The Shia elevated Ali to near divine status.

Another faction that developed was with Abdullah Ibn Zubayr. he opposed the sitting caliphate and established his own caliphate in Mecca.

Abdullah Ibn Zubayr did not deviate from the pure message of Islam. His difference was solely political,

The Khawarij and the Shia developed their own Figh over time that distinguished them from the main body of Muslims.

Many caliphs attempted to manipulate Figh to suite themselves.

The leading scholars resisted this and instead moved to areas without strong caliph control. This made ijma difficult and forced the scholars to do more ijtihad, i.e making laws using deduction.

With these changes, more Madhhabs were being developed.

There was a rise of Hadith fabrication which led to the development of science of Hadith methodology.

The fabrication of hadiths also led to false Figh or Figh based in these false hadiths.

There were two general characteristics of Figh in this era: literalists and those who used reasoning.

Literalists did not support delving into the meaning behind hadiths and verses of Quran.

These people were called Ahlul Hadith.

People of reasoning believed there was a reason behind every Hadith. They also developed hypothetical Fiqh, dealing with issues that did not currently exist.

These people were called Ahlul Ra'iy, people of Reason. Also called What Iffers.

March 24, 2012

Module 6b

Summary of the factors during this time:

Fabrication of hadiths. The deviant sects needed to fabricate hadiths on order to support their claims. Most of the Hadith fabrication was taking place in Iraq.

The Umayyad caliphate manipulated Figh to suit their needs.

The manipulation of Figh forced the righteous scholars to move away from the centers of government authority.

This dispersal led to more ijtihad.

April 3, 2012

Module 7a

The fourth era: Flowering

This period begins with the advent of the Abbassid caliphate.

The major scholars (the 4 Imams) were very flexible in terms of changing opinions with more evidence, and studying under other scholars.

The major factors that defined this era:

- 1. The government supported the scholars and incorporated them into their government. Nonetheless, there were still some caliphs that tortured and beat the scholars.
- 2. Increase in the centers of learning. This also led to many scholars traveling around the Muslim world to gain more knowledge. And this in turn led to debates and discussion between the scholars.

After the leading scholars died, there was a change. The Madhhabs became more rigid and the rulings of the founders were written down and compiled.

The compilations came in three main forms:

1. Mixture of hadiths, opinions of the sahaba and students of the sahaba, and opinions of the scholar, eg. Imam Malik's Muwatta.

- 2. Principles of Figh, Figh rulings with Hadith to support them.
- 3. Application of Figh toward issues that arose.

After some time, the closeness of the government and scholars began to dwindle. The government instead retained scholars to debate issues for the entertainment of the caliphs.

This debating led to an excess of hypothetical Figh and less use of practical Figh.

April 4, 2012

Module 7b

These debates also led to a rigidity in the Madhhabs and made scholars defend their Madhhabs positions even if they knew they were wrong.

The Hadith scholars, like Imam Bukhari and Imam Muslim, were not involved in clinging to one Madhhab.

Fourth factor that affected Fiqh was the organization of Fiqh. This was influenced by the knowledge and cultures of conquered cultures by the Islamic empire.

Some scholars disliked this as it helped those that debated for entertainment learn how to debate even better.

There was also compilation of tafsir and grammar.

Overall, this period of compilation was positive, but contributed to an increase in rigidity within Madhhabs.

During this period there were six sources of Islamic law.

- 1. Quran
- 2. Sunnah
- 3. Opinion of the Sahabah where they agreed (ijma'). Where the Sahabah did not agree, later scholars were free to choose what they felt was best.
- 4. Qiyas: analogical deduction where similarities were compared and rulings applied accordingly. This is where most of the differences between the Madhhabs occurred.
- 5. Sometimes qiyas led to conclusions that were not practical. When this happened, scholars were willing to choose legal preference over the ruling where the ruling is not practical. This principle had different names in different schools.
- 6. Urf: customary rulings. Local customs were accepted where it doesn't violate shariah and doesn't violate Islamic principles.

April 5, 2012

Module 8a

Hanafi Maddhab

The most popular Madhhab is the Hanafi Madhhab founded by imam Abu Haneefa.

He was born in Persia and his father became Muslim during the time of the Righteous Caliphs.

He favored a reasoned approach; that is trying to find the reason behind certain Islamic rulings.

Studied for 19 years under Hammad Ibn Zayd, of the leading Hadith scholars of his time.

The Umayyads wanted him to become a judge but he refused. For this, he was imprisoned and beaten by the governor of Kufa, Yazid Ibn Umar.

The Abbassid caliph Al-Mansur also wanted him to be a judge, and he again refused. He was imprisoned again and remained there until his death.

Considered one of the minor tabi'un because he met some of the minor Sahabah. However, he did not study under any of the sahabahs and his major teacher, Ibn Zayd, was a Tabi' Tabi'un.

His method of teaching involved group discussion.

Justified hypothetical fiqh by preparing for things before they happened.

Module 8b

Hanafi sources of Islamic law

- 1. Quran was primary source of law.
- 2. Sunnah
- 3. Ijma' of the Sahabah.
- 4. Individual opinion of the Sahabah.
- 5. Qiyas: analogical deduction
- 6. Istihsan: a weaker proof would be accepted over a stronger proof if the need was greater.
- 7. Urf: local customs

This Madhhab is now mostly found in northern India and Pakistan, Turkey, Iraq, Guyana, and Trinidad.

Al-Zaw' i Madhhab

Dominated Syria, Jordan, Palestine, and even Spain. But a local governor began to give a prize for those who memorized a Shafi' book. This caused the Al-Zaw'i Maddhab to dwindle and disappear.

April 9, 2012

Module 9a

Maliki Madhhab

His grandfather was a major companion of the Prophet pbuh, Amir.

He was born in Medina and studied under Imam Az-Zuhri and Nafi' who was the freed slave of Abdullah Ibn Umar.

He spent his whole life in Medina and didn't travel except for Hajj.

The Abbassid caliph wanted to make his rulings state law, but he refused.

He ruled against an Abbassid law that forced a man to divorce his wife if he broke an oath. For this he was imprisoned and beaten.

His major work was Al-Muwatta (the Beaten Path).

He died in Medina at age 83.

His method of teaching was to narrate a Hadith, and discuss its meaning in contemporary issues.

He encouraged his students to ask questions which he would answer. But he would only deal with practical, real life questions. He avoided "hypothetical Figh."

Maliki sources of law

- 1. Quran
- 2. Sunnah
- 3. Ijma' of the people of Medina.

Module 9b

- 4. Ijma' of the Sahabah
- 5. Individual opinion of the Sahabah.
- 6. Qiyas
- 7. Custom of the people of Medina (individual practices).
- 8. Istislah: considering the general welfare over the law.
- 9. 'Urf

One of his main students were Imam Shafi' and Abu Yusuf and Ash-Shaybani.

This Madhhab is mostly found in Upper Egypt, Sudan, parts of North Africa (Morocco, Tunisia, Algeria), West Africa (Senegal, Gambia, Ghana, Mali, Nigeria, Chad), and some Arabian Gulf states (Qatar, Kuwait, Dubai, Abu Dhabi).

Module 9c

Zaydi Madhhab

Great grandson of Ali Ibn Abi Talib through Husayn. His father was Zaynul Abideen.

Imam Zayd was a scholar of Quran and Hadith, and discussed religion with Imam

Abu Hanifah.

Was involved with a revolt against the Umayyads. But when he refused to curse Abu Bakr and Umar, most of his forces broke away. This led to his remaining forces being easily defeated. He was also killed during this battle.

Sources of Islamic law

- 1. Quran
- 2. Sunnah (mostly used Hadith attributed Ali, but we're still valid)
- 3. Ijma' of the Sahabah (this is why he accepted Abu Bakr, Umar, and Uthman as caliphs, though he felt Ali was better).
- 4. Qiyas
- 5. Aql: reason and intellect.

Found mostly in Yemen.

Module 9d

Laythi Madhhab

Imam Al-Layth was of Persian origin.

He was a contemporary of Imam Malik and Imam Abu Hanifah. He debated Imam Malik about accepting the custom of the people of Medina.

His approach to teaching was similar to Imam Malik and he did not like hypothetical Figh or utilizing too much Qiyas.

His Madhhab did not survive because he did not record his rulings and he did not instruct his students to do so either. His Madhhab was eventually eclipsed by Imam

Shafi'i.

Though his Madhhab did not survive, many of his ideas were absorbed by Imam Shafi'i.

Ath-Thawri Madhhab

Main scholar of the Hadith school of Kufah. He was also a contemporary of Imam Abu Hanifah.

His views were very similar to Abu Hanifah.

He didn't use much giyas and speculation and relied on Hadith much more.

He was a very outspoken scholar and rejected all government positions offered to him.

He was forced to go into hiding after tearing up a letter offering a position sent to him by the Abbassid Caliph.

Since he was in hiding, he was never able to build a solid foundation for his Madhhab or long term students.

In his will, he requested all of recordings of his rulings to be erased and destroyed.

April 10, 2012

Module 10a

Shafi'i Madhhab

Founded by Imam Shafi'i who was born in Gaza.

Studied under Imam Malik and memorized Al-Muwatta. Remained a student of Imam Malik until Imam Malik died.

After Malik's death he moved to Yemen and became a teacher himself. While there, a rumor started that he was under Shiite influence.

He was arrested because of this and taken to Baghdad to defend himself. He was able to prove himself and was set free.

While in Baghdad, he studied under Muhammad As-Shaybani who was a student of Imam Abu Haneefa.

Compiled his rulings which were a combination of Hanafi and Maliki Fiqh, into a book called Al-Hujja.

He later combined the rulings of Imam Abu Haneefa, Imam Malik, and Imam Layth and had to change many of his rulings in Al-Hujja. The new book he wrote with the combined Madhhabs was called Al-Umm, The Essence.

To his students, the book became known as Madhhab Al-Jadeed, The New School of Thought.

He was known for systematizing Figh. This work is known as ArRisaala.

Ahmed Ibn Hanbal and Imam Abu Thawr both studied under Imam Shafi'i.

Sources of Islamic Law

- 1. Quran
- 2. Sunnah. He gave precedence to well known Hadith, but rejected Imam Malik's position of taking the practice of the people of Medina.
- 3. Ijma' of the Sahaba. But he had doubts about it.
- 4. Individual opinions of the sahaba that did not contradict majority opinions.
- 5. Qiya:
- 6. Istishaab; deducing Fiqh laws by linking a later set of circumstances with an earlier set. Similar to Istislah of Imam Malik and Istishab af Imam Abu Hanifah.

One of his main students was Al-Muzani who wrote the most widely read book of the Shafi'i Madhhab called Al-Mikhtasar Al-Muzani. He was imprisoned, beaten, and tortured to death for rejecting the Mu'tazilite philosophy.

The Shafi'i Madhhab can be found in Egypt, parts of Yemen, Sri Lanka, southern India, Malaysia, East Africa, Philippines, Indonesia, and Suriname.

Comparing Hanafi, Malik, Shafi'i, Madhhabs.

- 1. All were agreed that the Quran was the primary source of Islamic law. But they sometimes disagreed on the interpretation of Quranic verses.
- 2. Hanafi and Shafi'i both accepted authentic hadiths, but Hanafi also requires that those hadiths be well known.
- 3. All accepted Ijma' of the Sahaba, but Malik also accepted ijma' of the people of Medina and gave it higher precedence than ijma' of the sahaba and in a few cases even higher than som hadiths.
- 4. All accepted and used Qiyas, but used different reasons for overriding Qiyas.

Module 10b

The Shafi'i Madhhab combined the Figh of Hijaz (Malik) and the Figh of Iraq (Abu Hanifah).

Imam Shafi'i personified the scholars of his era who traveled widely and learned under many different scholars. The Shafi'i Madhhab became widespread because the chief judge in Damascus adopted it and offered prizes for those who memorized its books. Also, Imam Shafi'i settled in Egypt allowing his Madhhab to spread and become dominant there.

Hanbali Madhhab

Founded by Ahmed Ibn Hanbal. He was a student of Imam Shafi'i.

He was tortured by the caliphs of his day who accepted the Mu'tazilite philosophy.

He was a prominent Hadith collector, having collected over 30000 hadiths.

Imam Bukhari and Imam Muslim were both students of his.

He did not record his Madhhab and forbade his students from recording it also. It was his student's students who actually recorded his rulings.

Both he and Malik taught Figh from a Hadith perspective.

His Hadith collection, Musnad, is arranged by the Sahabah who related it rather than by the Fiqh category like Bukhari and Muslim.

Because he had access to so many hadiths, and did not restrict himself to any particular Fiqh school, he often gave two different opinions and sets of evidences with his rulings.

Sources of Islamic Law

- 1. Quran
- 2. Sunnah
- 3. Rejected the ijma' of the sahaba as he thought that was impossible to know for sure.

Module 10c

- 4. Gave precedence to individual opinion of the sahaba over his own. Unlike other scholars who would choose the sahaba's opinion they felt was most accurate, he would mention all of the available opinions of the sahaba.
- 5. Weak hadiths were accepted as a source of rulings over his own opinion with the condition that the reason for the weakness was due to the narrator being a liar, or degenerate. Also wouldn't accept hadiths that included a break in the chain.
- 6. Qiyas in a limited sense based on whatever evidence he had available.

His main students were his two sons Salih an Abdullah.

The Hanbali Madhhab can be found primarily in Saudi Arabia and Palestine. Mitmis currently he foundation of the Saudi legal system.

This Madhhab was disappearing until it was adopted by Muhammad Ibn Abdul Wahhab.

Adh-Dhaahiri Madhhab

Imam Dawud Adh-Dhaahiri studied under Shafi'i and later studied under Imam Hanbali until he was expelled for stating the the Quran was created.

Used the obvious meanings of the text to make his rulings and stayed away from interpretations and metaphorical meanings. Came to be known as Dawud Adh-Dhaahiri, Dawud The Literalist.

He accepted ijma' bit rejected the idea that ijma' came about as qiyas of the sahaba. He felt it was something the the Prophet had said but was not recorded.

He rejected the principle of qiyas of non-sahaba. But to meet the needs of the people for things not covered in the primary sources, he came up with something called mafhum. However, it was still close to qiyas.

Over time, his approach was marginalized, and he did not attract many followers. It was very close to dying out when a Spanish scholar named Ibn Hazm adopted it. Adh-Dhaahiri eventually became the dominant school of Fiqh in Spain and parts of North Africa.

With the fall of Spain, the Dhaahiri Madhhab disappeared.

Jareeri Madhhab

Founded by Imam Jareer At-Tabari. He was a traveling jurist. he would study under whatever Madhhab was dominant in the area he was trading through.

His work in Tarikh, Tarikh At-Tabari is the classic work of Tarikh.

He produced a new generation of tafsir scholars and historians.

He did not have any major students and did not introduce anything new. So his school did to flourish.

The Madhhabs which survived did so because of outstanding students and state support. However, there were other scholars who were just as qualified but whose schools did to flourish.

Also, each of the major Madhhab had something unique that allowed it to stand out from others.

April 15, 2012

Module 11a

Review

Dilemma of the Madhhabs: how can all of them be correct even with conflicting rulings.

Incorrect positions: 1. Follow the Madhhabs blindly. 2. Don't follow the Madhhabs at all and reject them completely. Shariah law never gets outdated because it is based on human nature.

Legal content it he Quran is divided into two main categories: laws concerning Allah and laws concerning mankind. Examples of how Islamic law removes difficulty in human life: shortening the iddah to 3 months, shortening prayers while traveling, etc.

The rationale behind legal rulings: this allowed people to deduce laws based in the same principles.

Universal justice: the law is applicable to everyone regardless of status.

Module 11b

Two trends in Figh: the Figh of Medina and the Figh of Iraq. Medina Figh focused on text of the revelation, and Iraqi Figh focused on deductive Figh.

Factors that impacted Figh during the building period:

- 1. Division of Ummah into sects
- 2. Deviation of Umayyad caliphs.
- 3. Scattering of the scholars.
- 4. Fabrication of Hadith.

The increase in the number of ijtihad was caused by the scattering of the scholars.

Flowering of Figh period

Factors impacting this period:

1. The caliphs encouraged Figh.

Compiling of Hadith impacted Figh by making it easier for the scholars to focus on Figh and less time looking for the relevant hadiths

Court debates impacted the Madhhabs by promoting factionalism and rigidity.

Abu Haneefa method of trenching involved discussing the issue, then looking for the proof.

Imam Malik's method involved discussing the proofs, then looking for the issues.

Malik considered the customs if the Medinites to be a living Sunnah.

The practices of the Medinites refers to the group practices, while the customs referred to individual practices.

May 12, 2012

Module 12a

The early era of the Madhhabs was called the period of flowering. The latter part of this era is the period of consolidation.

The main reasons for conflicting rulings among the Madhhabs. All of the differences can be grouped into a few categories.

- 1. Word meanings and grammatical structures
- 2. Hadith narration, the conditions for acceptance, availability, etc.
- 3. Different standards and preferences for making rulings.
- 4. Differences in giyas (deduction of rulings).

Differences in word meanings and grammar:

Could come as a result of shared literal meanings, figurative and literal meanings, or different grammatical usages.

Shared literal meanings could arise because one word may have two different meanings. For example:

Chapter 2, verse 228

وَالْمُطَلَّقَاتُ يَتَرَبَّصْنَ بِأَنفُسِهِنَّ ثَلَاثَةَ قُرُوءٍ وَلَا يَحِلُّ لَهُنَّ أَن يَكُتُمْنَ مَا خَلَقَ اللَّهُ فِي أَرْحَامِهِنَّ إِن كُنَّ يُؤْمِنَّ بِاللَّهِ وَالْيَوْمِ الْآخِرِ وَبُعُولَتُهُنَّ أَحَقُّ بِرَدِّهِنَّ وَالْمُطَلَّقَاتُ يَتَرَبَّصْنَ بِالْمَعْرُوفِ وَلِلرِّجَالِ عَلَيْهِنَّ دَرَجَةٌ وَاللَّهُ عَزِيرُ حَكِيمٌ

"Divorced women shall keep themselves in waiting for three menstrual courses and it is unlawful for them, if they believe in Allah and the Last Day, to hide whatever Allah might have created in their wombs. Should their husbands desire reconciliation during this time they are entitled to take them back into wedlock. Women have the same rights against their men as men have against them; but men have a degree above them. Allah is All- Powerful, All-Wise."

The word قُرُوءِ could mean either the menses itself, or the period of purity between menses. Different Maddhabs differed on the application of this ruling because of these two different literal meanings. Ultimately, hadiths proved that the word actually referred to the period of menses itself.

Module 12b

Figurative vs literal word meanings could arise when a word has both a figurative and literal meaning. For example:

Chapter 4, verse 43

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَقْرَبُوا الصَّلَاةَ وَأَنتُمْ سُكَارَىٰ حَتَّىٰ تَعْلَمُوا مَا تَقُولُونَ وَلَا جُنُبًا إِلَّا عَابِرِي سَبِيلٍ حَتَّىٰ تَعْتَسِلُوا وَإِن كُنتُم مَّرْضَىٰ أَوْ عَلَىٰ سَفَرٍ أَوْ جَاءَ أَحَدُ مِّنكُم مِّنَ الْغَائِطِ أَوْ لَامَسْتُمُ النِّسَاءَ فَلَمْ تَجِدُوا مَاءً فَتَيَمَّمُوا صَعِيدًا طَيِّبًا فَامْسَحُوا بِوُجُوهِكُمْ وَأَيْدِيكُمْ إِنَّ اللَّهَ كَانَ عَفُوَّا غَفُورًا

"Believers! Do not draw near to the Prayer while you are intoxicated until you know what you are saying; nor when you are defiled - save when you are travelling - until you have washed yourselves. If you are either ill or travelling or have satisfied a want of nature or have had contact with women and can find no water, then betake yourselves to pure earth, passing with it lightly over your face and your hands. Surely Allah is All-Relenting, All-Forgiving."

The word لَامَسْتُمُ could mean a physical touch, or sexual contact. The Madhhabs differed as to whether simply touching a woman breaks the ablution, or if this word meant sexual contact.

May 19, 2012

Grammatical structure of phrases would cause differences also. For example the word إلَّى could mean "up to and including" or just "up to."

Chapter 2, verse 187

وَكُلُوا وَاشْرَبُوا حَتَّىٰ يَتَبَيَّنَ لَكُمُ الْخَيْطُ الْأَبْيَثُ مِنَ الْخَيْطِ الْأَسْوِدِ مِنَ الْفَجْرِ ثُمَّ أَتِمُّوا الصِّيَامَ إِلَى اللَّيْلِ

"And eat and drink at night until you can discern the white streak of dawn against the blackness of the night; then (give up all

that and) complete your fasting until night sets in."

In this verse it means "up to" and not including.

Chapter 19, verse 86

وَنَسُوقُ الْمُجْرِمِينَ إِلَىٰ جَهَنَّمَ ورْدًا

"And We shall drive the guilty ones to Hell as a thirsty herd."

In this verse, it means "up to and including."

The second major area that might cause differences among the imams would involve the hadiths. These differences involving Hadith could be based on the availability of hadiths, narration of weak hadiths, acceptability of hadiths, and textual conflict in hadiths.

Some imams made different rulings because some hadiths were not available to them.

Some imams made different rulings using weak hadiths because they did not know they were weak. Imam Ahmad felt it was better to use a weak Hadith than to use giyas.

Module 12c

Some imams made different rulings because they had differing standards on the acceptability of hadiths.

Imam Abu Hanifah only accepted well known hadiths.

Imam Malik rejected any Hadith that contradicted the practices of the people of Medina.

Imam Shafi'i only accepted Mursal (hadiths from students of the Sahabah that did not mention the name of the Sahabah) from Sayyid Ibn-Musayyib.

Imam Ahmad considered all Mursal hadiths acceptable as proof.

Some imams made different rulings because they had different methods for resolving conflicting hadiths.

The third major area that caused differences between the imams were the different principles they adopted. For example, Imam Malik's reliance on the practice of the people of Medina, and Imam Abu Hanifah's accepting only hadiths that were both well-known and authentic.

The fourth area that caused differences between the imams were their methods of qiyas. The different imams had different methods of deducing rulings and often, other imams rejected their methods.

May 22, 2012

Module 13a

From 950 to 1258 CE marks the era of consolidation. 1258 is the year that Baghdad was sacked by the Mongols. This also represents the end of the Abbassid dynasty.

By this time, most of the minor schools of Fiqh had died out or were dyeing. The three schools that still dominated were Hanafi, Shafi'i, and Maliki. The Hanbali school existed but only had a few followers.

These Madhhabs became entities of themselves. The scholars of this era also were given titles representing the school they studied under.

The scholars of this era ceased to use the Quran and Sunnah and the statements of the sahaba to make ijtihad and deduce principles. Instead, they made ijtihad based on the rulings of the Imams.

This shows how the process of ijtihad was beginning to slow down.

The scholars of is time began to treat the rulings of the founders as of they were set in stone and could not be touched.

Because of this they instead began to use tarjeeh. Tarjeeh is when the scholars would weigh the statements of the founding imams and their early students.

They would also use a process called tas-heeh in which they would authenticate the statements of the founding imams and their early students.

Module 13b

The benefit of this era is that it made the process of establishing rulings easier in that everything was cleaned up and streamlined. However, it limited the view of the scholars and the science of Fiqh became very rigid.

Even the books of Figh were standardized into a general format.

The writers of Fiqh books would present all views all imams on any given topic. However, they would also undermine these same views and give proofs as to why their Madhhab was correct.

During this time of consolidation, narrations were fabricated to prove that the four schools were predicted by prophet Muhammad (pbuh).

There was very little new work in Figh during this period. There was only stagnation.

After the sacking of Baghdad, the Muslim world was in a state of confusion. Many scholarly books and libraries had been destroyed. In this chaos, some Muslims began to make ijtihad who were not qualified.

The scholars of this time were concerned about this and decided to do something about it.

Module 13c

To stop this reckless making of ijtihad, the scholars "closed the doors" of ijtihad. Their justification was that all of the rulings from the founding imams had been codified and there was no need to make ijtihad any longer.

This cessation of ijtihad led to tagleed (blind following).

Muslims were not permitted to switch Madhhabs and people were punished for doing so.

The four Madhhabs became like different religions, to the point where Muslims do not pray under imams from other schools. Even the area around the Kaaba was separated into different parts for the different Madhhabs to pray.

Module 13d

If we come across a difference of opinions between the imams, the proper thing to do is to accept that ruling which is closest to the practice of Prophet Muhammad (pbuh).

Ahmed Ibn Hanbal used weak hadiths, but the condition of using them was that they were weak due to the memory of one of the narrators.

May 27, 2012

Module 14a

The 5th stage of the evolution of Fiqh was called the period of consolidation. It ended with the sacking of Baghdad in 1258 by the Mongols.

The Mongols needed local Muslims to administer the newly conquered areas. The descendants and the Mongol rulers eventually became Muslim themselves.

With the sacking of Baghdad, many books, libraries, and scholars were destroyed. The remaining scholars sought to preserve the religion during this time of disarray and some decided to speak against ijtihad and even to "close the doors" of ijtihad. This was done to prevent corrupt individuals from using Figh to fit their whims.

This rigid approach led to taqleed, or blind following.

The attitude towards the Madhhabs changed during this period also. Where they used to be regarded as sincere attempts by the founders to follow Prophet Muhammad, they now became absolute, equal, and obligatory "sects" within Islam.

A Muslim who did not follow a Madhhab during this era was considered an apostate and Muslims were not allowed to switch from one Madhhab to another.

Module 14b

This era marks a period of stagnation and decline. It is only just beginning to end today and shows the dominance of the Madhhab and the emergence of tagleed.

The factors contributing towards tagleed:

- 1. The four Madhhabs were formalized. The extensive speculative Figh of the past had worked out many potential issues and they had all been recorded. Since ijtihad was coed, there was no reason for scholars to revisit the early rulings and do new research. All they had to do was repeat these earlier rulings.
- 2. Islamic governments depended less on Islamic law. Islamic rulers appointed many government bureaucrats who were often Shia and did not utilize Islamic law and were more concerned about staying in power.
- 3. As the Abbassid government crumbled, the new mini states adopted one of the Madhhabs to be their official code of law. This led to potential judges in these areas only following and studying the Madhhab of that specific area which led to more tagleed.
- 4. Incompetent people began to make ijtihad and rulings and that prompted the authentic scholars to disallow and disavow ijtihad in general.

Since everyone had to follow a specific Madhhab, students who wanted to study Fiqh had to memorize huge volumes of law that had been developed in the past. This discouraged many people from studying Figh.

To solve this some scholars began to simplify and condense different Islamic subjects into lines of poetry.

To make this poetry rhyme, they often had to use obscure terminology. This led to the students and scholars of this era spending more time interpreting the poems than working on actual Figh.

When teaching about ijtihad and Usool al-Fiqh, scholars would set the bar to make ijtihad unreasonably high in order to discourage their students from doing so.

Rulings of other schools were criticized while rulings of ones own school taught and verified.

The Ottoman Empire attempted to codify Islamic law throughout the empire, and was completed in 1876. The only problem with this codification was that it was based on blind following of the Hanafi Madhhab.

Module 14c

After the fall of Islamic Spain, the era of European colonization began.

With so many gaps in Islamic law due to the end of ijtihad, Muslim nations began to implement more European law to fill these gaps.

Eventually, European law became predominant throughout the entire Muslim world what few exceptions:

- *Saudi Arabia uses Islamic law based on Hanbali Figh.
- *Iran uses Islamic law based on Jafari Figh.
- *Pakistan uses Islamic law based on Hanafi Figh.
- *Sudan uses Islamic law based in Maliki Figh.

All other Muslim countries primarily follow European laws, and Islamic law is relegated to family law only.

June 3, 2012

Module 15a

Though taqleed was dominate, there were scholars who opposed it during this era like Ibn Taymiyyah. Among his students were Ibn Al-Qayyim and Ibn Kathir.

Another was Muhammad Ali Ibn Shawkani who was originally from Yemen and was from the Zaidi Madhhab. He took a strong position against tagleed.

Also Shah Waliullah Ad-Dihlawi urged the reopening of ijtihad and promoted the dea that Muslims were free to choose any Madhhab.

Jamal Ad-Deen Al-Afghani also urged the reopening of ijtihad.mhe did not make a change himself but he did influence his students, the most popular of whom was Mohammad Abduh.

However, Abduh was too impressed by the western education system and it affected his teachings and interpretations. For example, he passed a fatwah permitting interest in business.

Abduh's main student, Muhammad Rasheed Riza, carried on the banner against taqleed, but rejected his teachers' attachment to the western philosophy. However, Abduh's other students carried on with his western leaning philosophy.

Module 15b

The high advancement of the western world caused many Muslims of this era to eject many aspects of Islam for modernism.

Module 15c

In reaction to these modernist thoughts, arose movements calling for a return to Shariah and Islamic rule in the Muslim world. Among these was Ikhwani Muslimeen in Egypt and Jamaat Tabligh in India.

However, even though these movements may have hid noble intentions, they often went astray because they did not have a scholarly basis.

Another movement was the Ahlul Hadith movement in Saudi Arabia led by Nasr Al-Deen Al-Albani and Bin Baaz.

One advancement if these movements was the acceptance of comparative Figh in the institutions of higher learning. However, the Figh of the area was the main Figh taught in that school.

June 5, 2012

Module 16a

Imam Abu Hanifah discouraged his students from writing his rulings down as he may change his mind when new information came to him.

He also discouraged people from accepting his rulings without knowing his proofs.

He said if his rulings opposed the Quran and Sunnah than they were not to be followed.

He said of a Hadith is authentic, then that is his Madhhab.

In short, imam Abu Hanifah was against tagleed.

Module 16b

The masses of people do not have this information and are not aware that the imams were against tagleed.

Imam Malik made similar statements.

His statements show that he was willing to change his opinion if necessary.

When evidence came to him that contradicted what he knew, he would change his position.

He advised people to investigate his opinions as he was such susceptible to errors.

Imam Shafi'i was similar.

He reminded people that he was human and could forget things.

He said that he may say some things that would contradict the Quran and Sunnah and that the truth would be his true position.

He said no one is allowed to abandon an authentic Hadith for someone's opinion.

Imam Hanbal warned against tagleed. In his era, tagleed was starting to take root.

He said the opinions of the imams were only opinions and the real criteria for right and wrong is in the Hadith.

He said whoever rejects an authentic narration is on the verge of destruction.

The tendency to tagleed is strong within humans, do the imams found it necessary to speak put strongly against it.

The great students of these imams also followed this same path against tagleed.

Module 16c

Saudi Arabia is influenced by the movement of Abdul Wahhab, hence it's less burdened by tagleed.

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