



## **Why Ordinary Muslims Should Comprehend Basic Concepts of Usul al-Fiqh**

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### **Introduction**

The field of Usul al-Fiqh is unknown to most ordinary Muslims, meaning those other than scholars and students of knowledge. While it is true that most Muslims do not require an in-depth understanding of Usul al-Fiqh because they will not be required themselves to make jurisprudential verdicts, there are benefits that everyday Muslims can derive from understanding the basic concepts of this field.

In contrast to Usul al-Fiqh, every Muslim requires a working knowledge of fiqh itself as it pertains to his or her practice of Islam. Fiqh represents the rules of Islamic Law as derived from evidences in the primary sources of the Shari'ah, the Qur'an and Sunnah. Therefore, Muslims must have a practical understanding of fiqh as it pertains to their daily practice and application of Islam in every aspect of their lives. Since Usul al-Fiqh is the branch of Islamic knowledge that deals with the roots of Islamic law, meaning the principals and methodology by which the law (fiqh) is derived from its sources, it is not essential to the everyday practice of Islam and is beyond the purview of the typical Muslim's concerns. Nevertheless, while the ordinary Muslim will never undertake in contributing to or analyzing fiqh rather than being an "end-user" of fiqh, a basic understanding of the field of Usul al-Fiqh is still of great benefit for any Muslim as will be investigated and explained herein.

### **The Proper Intention Behind Ijtihad**

Without an understanding of Usul al-Fiqh, it would be very easy for the ordinary Muslim to be confused by or even critical of the different rulings that scholars might reach regarding an individual question of fiqh. Furthermore, the differences of opinion among schools of Islamic jurisprudence (mathaahib) could incite even more contempt in the Muslim who might desire one simple answer to every fiqh question and wonders why this cannot be the case and why the scholars of fiqh cannot come to agreement. Such a Muslim might find the machinations of the fiqh scholars to be unnecessarily complicated and adding unneeded anxiety for a person who simply wants to

know what to do in a particular situation and does not want to be confused by multiple possible answers.

For this reason, an understanding of the proper intention of the mujtahid (jurist) in considering matters of fiqh becomes critical for the Muslim at risk of following this misguided line of thinking. By understanding the intention behind ijtihaad and then the methods by which the scholars sincerely attempt to perform it vis-à-vis Usul al-Fiqh, a Muslim will be protected from suspicion or frustration with the scholars of the religion.

Ultimately, the mujtahid seeks to determine the Will of the Lawgiver in the application of the law in the world. The objective and sincere effort to do so will by obligation require some standardized methodology by which he considers the evidence in the course of making his ruling. The means by which he weighs the evidence under his consideration is the central impetus for Usul al-Fiqh, but the reason for embarking on this process from the beginning is not to unnecessarily complicate an issue that could be solved simply; rather, it is to sincerely search for the answer that will most closely preserve the intention of Allah (ﷻ) from what is relayed in the primary sources.

The ordinary Muslim, then, must understand that the goal of the mujtahid is to extract the Will of the Lawgiver from the primary sources of the Qur'an and Sunnah to the best of his ability not as a matter of legal wrangling, but rather to achieve the lofty goals of Islam as a guidance for mankind and reformer of hearts and societies. Chief among the principles established by Allah (ﷻ) towards this end and deliberately upheld by the scholar in the course of ijtihaad are the principles of: "a) removal of difficulty, b) reduction of religious obligations, c) realization of public welfare, and d) realization of universal justice."<sup>1</sup>

Therefore, by understanding the intention of the mujtahid in studying and adjudicating upon the law as taken from the primary sources, the ordinary Muslim can rest assured that the complexity and differences of opinion that result from the process of ijtihaad is not in vain. As explained by Kamali in regards to the process of ta'lil or ratiocination by which the scholars evaluate the rationale behind the laws: "The majority view on ta'lil takes into account the analysis that the rules of Shari'ah have been introduced in order to realize certain objectives and that the Lawgiver has enacted the detailed rules of Shari'ah, not as an end in themselves, but as a means to realizing those objectives. In this way, any attempt to implement the law should take into account not only the externalities of the law but also the rationale and the intent behind it."<sup>2</sup>

### **Functional Results of Openings for Interpretation**

The ordinary Muslim might still be left to wonder why differences of opinion will occur among scholars and why one clear answer would not exist for every question of fiqh if ultimately it is the Will of Allah (ﷻ). While overly simplistic, it is not an unreasonable question to consider that if the Shari'ah contains the truth from the Almighty, then why would a Being of infinite knowledge and power not be able to explain His Will for mankind in a manner leaving no ambiguity? Why would there be a need for ijtihaad and Usul al-Fiqh when Allah (ﷻ) can

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<sup>1</sup> Abu Ameenah Bilal Phillips, *The Evolution of Fiqh*, p.44

<sup>2</sup> M.H. Kamali, *Principals of Islamic Jurisprudence*, p.42.

communicate all laws clearly without need for interpretation? It is here that the Muslim must understand that the need for interpretation is not a weakness of the Divine law but rather an important and intentional feature of it for multiple reasons.

Among these is the need for flexibility in the application of the law in the real world as will be elaborated upon in the next section. Equally important is the understanding that leaving room for interpretation and multiple opinions in fiqh questions creates a type of challenge for the “end-user” Muslim in his practice of Islam. The Muslim who is following the letter of the law for reasons of expediency will be tempted to follow the opinion of any scholar or self-proclaimed scholar who produces an opinion for him that is in line with his desires. In contrast, the sincere Muslim who truly seeks to please his Lord and serve Him by following His laws as best as he can will derive a benefit from the differences of opinion among the scholars by having an opportunity to prove his dedication.

In some matters of fiqh, the Will of Allah (ﷻ) will be clear and not open to interpretation as classified in Usul al-Fiqh as the qat’i. In these matters, no room for interpretation is left by the Lawgiver as it is more critical that such matters be followed for the ultimate purpose of the Shari’ah to be accomplished. For example, there is no ambiguity in the following verse, and the important of its clarity in establishing the Will of Allah (ﷻ) on earth is unquestionable:

وَمَنْ يَقْتُلْ مُؤْمِنًا مُتَعَمِّدًا فِجْزَاؤُهُ جَهَنَّمُ خَالِدًا فِيهَا وَغَضِبَ اللَّهُ عَلَيْهِ وَلَعَنَهُ  
وَأَعَدَّ لَهُ عَذَابًا عَظِيمًا

But whoever deliberately slays another believer, his requital shall be hell, therein to abide; and God will condemn him, and will reject him, and will prepare for him awesome suffering. (an-Nisaa’, v.93)

It is important to note that even given the existence of such qat’i evidences, the scholars of Usul al-fiqh add that the legal maxims (al-qawa’id al-fiqhiyya) are still relevant to the application of even the clear laws. For example, the maxim “hardship begets facility” would dictate that the clear prohibition on consumption of pork<sup>3</sup> is suspended in a situation where no other food is available and the prohibition would lead to death from starvation.

In the same way that the Muslim should understand the test of faith resulting from the availability of variant interpretations of the law, one must also understand that a methodology by which such interpretations are reached is a necessary protection for the mujtahid himself. Central to the raison d’etre of Usul al-Fiqh is the concept that a method be defined for considering matters of ijtihaad to avoid any bias that might be introduced while ruling on individual matters. In other words, if there were no method being employed while weighing the evidence regarding a particular law, an objective result is less likely than when a methodology is defined prior to considering specific cases. In this way, Usul al-Fiqh protects the mujtahid and the body of fiqh from the intrusion of arbitrary or idiosyncratic rulings that could potentially be tainted by the inherent human frailty of any particular mujtahid.

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<sup>3</sup> Qur’an, Al-Baqarah, v.173

## **Flexibility and Tolerance for Diversity**

As previously stated, an additional functional consequence that results from the Lawgiver having left room for interpretation in the arena of fiqh is a flexibility that allows for the goals of the Shari'ah to be reached regardless of time, place, and circumstance. With this understanding, the ordinary Muslim will comprehend that the differences of opinion that exist among the jurists is healthy and indeed complementary to the function of the Shari'ah among humankind in the world.

Usul al-Fiqh comprises the methodology by which the flexibility in the deduction of laws from the Shari'ah contains and guides this flexibility so that it is more likely to result in the end goal of the law itself and to prevent violation of the law when flexibility is not warranted. Therefore, the rules of ijtihaad provided by Usul al-Fiqh "enable the Muslim jurist and legislator to contribute to the on-going search for better solutions to social issues, and hopefully also toward the development of the outlook that the Shari'ah, despite its restraints, also possesses considerable flexibility and resources to accommodate social change."<sup>4</sup>

Two important lessons for the ordinary Muslim result from this concept even with only a basic knowledge of Usul al-fiqh. First, it reinforces conviction in the truth of Islam as the Will of the Creator. The flexibility within the body of fiqh is both a blessing for the Muslim and, as previously described, can also be a test, but the wisdom behind the existence of flexibility in the law is undeniable and is more convincing of a Divine source than would be a perfectly clear and rigid system devoid of room for interpretation. At the same time, if the Shari'ah is indeed Divine in origin, one would expect that the Creator would allow flexibility but still legislate in a way that would still preserve the intended function of the law upon interpretation by imperfect human beings.

While we cannot say that Usul al-Fiqh is divinely guided in its form and outcomes, the fact that fallible beings such as ourselves could create methodologies to navigate what is open to interpretation and still end up with a perfect mix of flexibility but also unquestionability when appropriate is astounding. In other words, the fact that the vast majority of the Shari'ah is widely agreed upon without the level of deviation that has been seen in other religions is remarkable and suggests that only a Perfect Being could have provided the primary sources in such a way that they could be open to interpretation enough to allow flexibility without deviation. Again, the methods of Usul al-Fiqh were not elaborated by the Lawgiver, but His perfect knowledge is evident in the Shari'ah in that it can be subjected to methodical study and differences of opinion without contaminating its intent and function.

One might expect that the level of agreement prevalent today, hundreds of years after revelation, would only be possible with an extremely rigid primary source that leaves no doors open to human interpretation or, alternatively, that any system allowing for such flexibility would eventually lead to decay and spoilage of the entire system. That neither of these is the case in Islam and the Qur'an and Sunnah should create additional conviction in the heart of the ordinary Muslim once he understands the basics of Usul al-Fiqh.

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<sup>4</sup> Kamali, p.8

The second important lesson that the ordinary Muslim can derive from the existence of flexibility in the Shari'ah and perfect balance in the primary sources between interpretable and incontestable is that the disagreements among the scholars of fiqh are not a matter of "wrong" and "right." A Muslim ignorant of the basics of Usul al-Fiqh may mistakenly suppose that when more than one ruling is made on a particular fiqh issue, one scholar or school of jurisprudence (madhhab) is correct while the others are wrong. While the scholars are not infallible and mistaken ijtihaad can certainly occur with one opinion being closer to the Will of the Lawgiver than others, this should not engender an intolerance for differences of opinion since this was never the intention of the scholars of Usul al-Fiqh to begin with. As previously explained, the mujtahid exerts his full efforts in the sincere search for what is most pleasing to the Creator and achieves the goals of the Shari'ah most closely, and his goal is not to disagree with others or prove his worth over others as occurred in previous nations:

وَأَتَيْنَاهُم بَيِّنَاتٍ مِّنَ الْأَمْرِ فَمَا اخْتَلَفُوا إِلَّا مِنْ بَعْدِ مَا جَاءَهُمُ الْعِلْمُ بَعِيًّا  
بَيْنَهُمْ إِنَّ رَبَّكَ يَقْضِي بَيْنَهُمْ يَوْمَ الْقِيَامَةِ فِيمَا كَانُوا فِيهِ يَخْتَلِفُونَ

And We gave them clear indications of the purpose [of faith]; and it was only after all this knowledge had been vouchsafed to them that they began, out of mutual jealousy, to hold divergent views: [but,] verily, thy Sustainer will judge between them on Resurrection Day regarding all whereon they were wont to differ. (al-Jaathiyah, v.17)

Intolerance of the alternative views of other mathaahib is a destructive disease that has plagued many Muslims in the past as well as modern times.<sup>5</sup> A basic understanding of the differences in methodologies adopted by the jurists will elucidate for the ordinary Muslim why different conclusions can be reached regarding individual issues of fiqh despite all these methodologies being sound and defensible in and of themselves.

### **Protection from Adopting Deviant Opinions**

Another critical role played by the field of Usul al-Fiqh is the regulation of ijtihaad and this "is indeed the primary objective of Usul al-Fiqh and of whatever it has to teach regarding the sources of law and the methods of interpretation and deduction."<sup>6</sup> Primarily, it defines what sources are valid for deriving law, beginning with the Qur'an and Sunnah as well as other considerations including qiyas (analogy), ijmaa' (consensus), istihsaan (juristic preference), istislaah (public interest), istishaab (presumption of continuity), etc. Sources outside of those validated by Usul al-Fiqh are therefore rejected, which is critical for every Muslim to know and apply in his practice of Islam. This could be more obvious to the typical Muslim such as if someone claims to make a fatwa or ruling based upon a dream he had but is a concept obviously

<sup>5</sup> Muhammad Sultan al-Ma'soomee al-Khajnadee (Translation by Abu Talhah Daawood bin Ronald Burbank), The Blind Following of Madhhabs, p.38

<sup>6</sup> Hatem al-Haj, Abbreviation of Principles of Islamic Jurisprudence by M.H. Kamali, p.14

lost on the Muslim who is willing to follow the edicts of a “saint” or his sworn “Imam,” for example, in contradiction with the Qur’an or Sunnah.

The regulation of ijtihaad does not end here with the validation of sources. The establishment of a methodology for ijtihaad is critical to protect from the generation of deviant opinions. The sincere jurist who follows the established rules and norms of Usul al-Fiqh will be protected from pursuing imprudent directions as well as protection from any personal biases he may have interfering with his adjudication of a particular matter. Nevertheless, there will always be the possibility of sincere jurists making mistakes and insincere jurists attempting to fool the masses with false fatawa. While Usul al-Fiqh cannot prevent such untoward rulings from occurring, it can prevent their widespread adoption by nullifying them in the court of scholarly opinion.

Where this becomes critical for the ordinary Muslim is in protecting them from following any fatwa here or there, even when it may fit their own desires. When the ordinary Muslim understands that there are approved methodologies for ijtihaad and prerequisites of the mujtahid, he or she will not accept an irregular ruling without a great amount of investigation into its validity. As Kamali states, “The need for the methodology of Usul al-Fiqh became prominent when unqualified persons attempted to carry out ijtihaad, and the risk of error and confusion in the development of Shari’ah became a source of anxiety for the ‘ulema [scholars],”<sup>7</sup> but while the common Muslim will not be qualified to employ the tools of Usul al-Fiqh to weigh evidences and examine the strength and weaknesses of particular ijtihaad or fatwa, his understanding that such processes exist will cause him to pause before accepting the ruling of every person claiming to profess such authority.

## **Conclusion**

A basic understanding of Usul al-Fiqh has several significant lessons for the ordinary Muslim, some of which pertain to his attitude regarding the faith of Islam and others important to his everyday practice. By comprehending the role and methodology of ijtihaad in Islam, a Muslim will be more convinced in the Divine origin of his religion, more tolerant of differences of opinion among the scholars, and better protected from deviation.

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<sup>7</sup> Kamali, p.13