

## History Of Development Of Usul Al-Fiqh

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### Abstract:

"Usul Al-Fiqh," Given The Name Of The Famous Science, Might Be Said To Be The Cumulative Evidence In The Field Of Islamic Law And Legislation, Ways Of Deriving "Shariah" Provisions From Them, And Considered The Qualities Of Those Who Could Derive Them. This Article Revealed The History Of "Usul Al-Fiqh's" Development, And The Author Set Out His Arguments.

**Key Words:** Fiqh, Usul Al-Fiqh, Qur'an, Sunnah, Ijma, Qiyas.

### Introduction

Fiqh As A Doctrine Divided Into Two Parts: "Furu' Al-Fiqh" (Branches Of Fiqh (Applicable Law) And "Usul' Al-Fiqh" - The Foundations, The Roots Of Fiqh (Theoretical Law). When One Spoke Of Fiqh, One Usually Referred To Its Ramifications (Furu'). "Usul" Considered As A Sea Of Knowledge That Was Yet To Be Discovered. An Essential Science In Terms Of The Study Of "Shariah", Especially For The "Shafi'i". Our Fiqh Was Built On "Usul", And It Was The "Shafi'i" Who Introduced This Subject As A Whole Subject Of Study, Developed It, And Spread It All Over The World.

"Usul' Al-Fiqh" (الْفَقْهُ أُصُولٌ) Arabic. - Fiqh Root) – The Foundation Of Muslim Law (Fiqh), The Methodology Of Law (Jurisprudence), A Set Of Four "Roots" Or Bases Defining All Legal Relations In The Islamic World: The Qur'an, The Sunna, The Ijma, The Qiyas. Although These Four "Roots" Had Been Recognized By All Legal Schools Of Islam, The Meaning And Possibility Of Applying The Last Two "Roots" Were Defined Differently By Representatives Of Different "Madhabs". The Classical Concept Of "Usul Al-Fiqh" Emerged As Early As The Eighth-Ninth Centuries, Along With The Development Of "Fiqh" And The Establishment Of Schools Of Religious Law Due To The Gradual Subordination Of Law To The Religious And Ethical Values And Ideals Of Islam. Some Muslim "Fiqh's" Sought To Resolve Legal Issues Based On Their Rational Systematization And Personal Opinion (Raj), While Others Reduced All "Fiqh" Norms Ultimately To Divine Revelation.

This Definition Contains Three Of These Science Topics: Evidence, Ways Of Deriving "Shariah" Provisions, And "Ijtihad" [1].

In Light Of Muslim Jurists' Judgments, An Analysis Of The Existence Of A Connection Between The Theory Of "Shariah" Objectives And The Concept Of "Maslahat" With The Primary And Derivative Sources Of Islamic Law Would Be Presented. The Purpose Of Revealing This Connection Was To Demonstrate That The Concept Of "Maslahat" Was Not The Result Of The Whims And Subjective Desires Of "Mujtahid" [2].

Terminologically, The Hanafis Defined "Fiqh" As "Practical Understanding Of Shariah Rulings For Or Against Based On Human Actions", And The "Shafi'i" As "Understanding Of Practical "Shariah" Rules, Such As Worship, Devotion, And Punishment" (Uqubat - Based On Their Detailed Proofs).

Therefore, "Usul Al-Fiqh" Had Different Meanings Of "Arguments Of Fiqh", "Proofs Relating To Fiqh", "Roots Of Fiqh", And "Roots Of Law". "Usul Al-Fiqh's" Rule Described: 'In The Absence Of A Sign Preventing Indebtedness, The Form Of The Command Expresses Indebtedness.

Ilm "Usul Al-Fiqh" Was A Teaching, Which Aimed At Deriving Norms From The Qur'an And Sunnah. The Meaning Of The Knowledge Derived From This Teaching Might Be Presented In The Following Order:

1. A Person Specializing In This Teaching Comprehends The Meaning Of Almost All Expressions From The "Qur'an" And The "Sunnah".
2. Through This Teaching, One Could Learn How "Mujtahids" (Learned Theologians) Elaborate Norms; The Priority Of Norms Derived From "Ar-Ra'i" (Opinion, Judgment) Or "Ijtihad" (Diligence). And As A Consequence, To See The Methods Of True Bat (Extraction) And "Ijtihad" Engaged By The "Mujtahids" And Which Of Their Works Had Influenced "Fiqh".
3. Through This Teaching, It Was Possible To Know The Arguments About The Norms Contained In The Qur'an On "Fiqh"; Which Of These Norms Had Been Derived From The Qur'an, The Sunnah, Or Had Their Basis In The Diligence ("Ijtihad") Of The "Mujtahids".
4. Through This Teaching, The Essence Of The Purposes And Limits (Hikmat At-Tashri') Stipulated By Allah In Establishing Religious Norms Could Be Grasped.
5. Those Who Specialized In This Doctrine Added To Their Knowledge Of The Law, Developed The Power Of Judgment, And Formed Legal Skills, And Could Make Confident Decisions Based On The Qur'an And The Sunnah.

## **Materials And Methods**

### **The History Of The Study Of "Usul Al-Fiqh"**

One Of "Usul Al-Fiqh's" Best Definitions Was Given By Imam Al-Baydawi: "Usul Al-Fiqh Is The Study Of The Proofs Of Fiqh In General Terms The Ways Of Benefiting From Them And The Qualities Which The Driver Of Solutions Should Possess".

In Other Words, "Usul Al-Fiqh" Described The Study Of Three Significant Sections:

- General Principles;
- Fiqh Evidence - How To Use It;
- Who Was Entitled To It - Its Qualities [3]

"Usul Al-Fiqh" Was A Tool Of Ijtihad - An Obligatory Science For A "Mujtahid". Since We Would Never Reach This Level, We Only Need It To Understand Our Religion's Logic. This Science Had Passed Through Three Main Stages In Its Development Among The Followers Of The Sunnah. The First Stage Represented The Initial Thorough Works Written By Imam Ash-Shafi'i In This Critical Science. The Second Stage Was Displayed In The Hadithological Orientation Of Two Honorable Imams, Al-Khatib Al-Baghdadi And Ibn' Abd Al-Barr. The Third Stage Showed Signs Of Correcting The Curvature To Which The Science Of 'Usul Al-Fiqh Had Been Subjected. It Was Improved By Two Great Imams, Ibn Taymiyyah And Ibn Al-Qayyim [4]. These And Other Sunnah Imams Were Credited And Had Numerous Books That Showed The Route, Outlined The Road And Marked The Landmarks.

The First Person To Write A Book On "Usul" Was Imam Shafi'i, Rahimahullah. He Wrote The "Risalah" As An Answer To Abdurrahman Ibn Mahdi, A "Muhaddis" From Iraq, In Which He Asked Questions Such As How To Pass Judgment When One Dalil Contradicted Another, Which Evidence To Take Into Account First And Which To Take Into Account Second And Other Questions [5].

Imam Shafi'i Is Considered To Be The Author Of The First Book On Usul. However, This Did Not Mean That This Science Did Not Exist In Principle. It Was In The Minds Of The Mujtahids. Furthermore, Each Mujtahid Mutlaq - Each Of Them Had His Principles. Imam Malik, For Example, Relied Heavily On The Amal Of Medina In His Judgment And Considered The Deeds Of The Medinans As Hadith Mutawatir. For Example, He Would Leave A Reliable Hadith (Ahad) That Did Not Reach The Degree Of Mutawatir For The Sake Of The Act Of The Medinans If They Contradicted Each Other. Here Is An Example Of Usul Of Imam Malik, Rahmatullahi Alayhi.

Imam Abu Hanifa, Rahimahullahi, Also Had His Own Principles Of Usul, His Own Understanding. One Of The Peculiarities Of Hanafi Usul Is The Stricter Requirements For Hadith Than Others. Here, One Of The Requirements For Rendering Hukm Was That Only Those Hadiths Practiced By The Transmitters Were Accepted. According To Imam Abu Hanifa, If The Transmitter Himself Did Not Practice The Hadith He Transmitted, It Was Considered To Be Abrogated. Also, Imam Abu Haneefah, Between Two Contradictory Hadiths, Gave Preference To The Hadith Where There Are Alim Among The Transmitters. This, Too, Was An Example Of "Usul Al-Fiqh".

Accordingly, Each "Mu'tahid" Had His Principles And His Understanding Of Adjudication Principles, But Imam Shafi'i Was The First To Write A Separate Work On This.

The Hanafis Said That Imam Abu Yusuf Wrote The First Work, But Had Not Been Preserved. Therefore, To Be Precise, We Could Say That Imam Shafi'i Was The First Whose Book Has Come Down To This Day. Nevertheless, The Books On The History Of "Usul" Said That The First Book In This Area Was The "Risalah". Then, After Imam Al-Shafi'i, Rahmatullahi Alayhi, We Could Distinguish Two Ways Of Writing Books On Usul:

1. Tariqatul-Mutakallimin (Shafi'i, Maliki, Khanbali)
2. Tariqatul-Fuqaha (Khanafi).

### **Development Concept Of "Usul-Al-Fiqh"**

The Development Of The Concept Of Usl Al-Fiqh Was Associated Primarily With The Name Of Muhammad Ibn Idris Al-Shafii (Died In 820). In His Treatise "Al-Risala", Which Was Included In The Collection "Kitab Al-Umm", He Laid Down The Foundation Of Fiqh Jurisprudence And Developed A Reasonably Precise Definition And System Of Sources Of Fiqh Law [6].

The Classical Theory Of "Usul Al-Fiqh" Proceeded Because The Quran And The Sunna Were The Primary Sources Of Fiqh Law Since They Either Contained Specific Rules Of Conduct Directly Or Provided Rational Ways Of "Extracting" Them From The Divine Revelation.

The Third Source Was The "Ijma", Which Gradually Came To Be Understood As The Unanimous Opinion Of The Most Authoritative "Mujtahid" Jurists On Matters Not Directly Regulated By The Qur'an And The Sunna.

The Fourth Source Of Fiqh Law Was Recognized As "Qiyas", Which Involved The Use Of The Method Of Analogy To Resolve Questions For Which There Were No Specific Answers In The Qur'an And The Sunnah. Besides, The Classical Concept Of "Usul Al-Fiqh" Admitted Other Rational Methods Of Finding Legal Solutions As Additional Sources Of "Fiqh", Provided That In Legal Practice, Issues Arised That Are In No Way Regulated By The Sources As Mentioned Above.

### **Results**

The Theory Of "Usul Al-Fiqh" Is Interpreted Differently By Different Strands Of Muslim Legal Thought. The Differences In Views Characteristic Of "Madhhabs" Also Concerned The Understanding Of The Significance Of "Fiqh" Sources. For Example, The Malikites Did Not Consider "Ijma" To Be The Joint Opinion Of The "Mujtahids"; By "Ijma" They Meant Only The Qualified Recommendations Of Educated Muslims In Medina. The Zahiris And Some Hanbalis Consider Only The Unanimous Opinion Of The Prophet Muhammad's Companions. The Specificity Of The Jafarites' Ideas About "Usul Al-Fiqh" Was Explained By The Imamate Concept They Had Adopted. Therefore, They Referred Not Only To The Qur'an And The Sunnah But Also The Decisions Of The Twelve Imams.

The Most Noticeable Divergences Between Madhhabs Were Observed In Their Application Of Rational Ways Of Solving Legal Issues. For Example, The Hanafis Widely Used “Istihsan”, And The Malikis Use “Istislah”. At The Same Time, Many Jafarists Denied “Qiyas” As A Source Of “Fiqh”. Such Differences To A Certain Extent Reflected The Diversity Of Jurisprudence With Which The “Madhhabs” Developed Their Ideas About The Sources Of “Fiqh”. The Classical Concept Of “Usul Al-Fiqh” Had Been Accepted Without Fundamental Changes By Modern Muslim Jurisprudence And Was Regarded As The Theoretical Basis Of “Fiqh”.

#### **A. “Usul Al-Fiqh” In The Time Of The Prophet (Peace And Blessings Of Allah Be Upon Him)**

The Prophet Muhammad (Pbuh) Communicated Religious Norms To The People. The Norms Were Belonging To The Meccan Period Mainly Concerned Moral Qualities (Ahlak) And Faith (I'tiqad). Legal Norms Were Rare During This Period. The Legal Norms Were Most Relevant To The Medina Period. During The Prophet (Pbuh) Time, The Sources Of Fiqh Were Quran, Sunnah, And Ijtihad. The Prophet (Pbuh) Taught His Companions The Methods Of Lawmaking In Practice. They Knew How They Would Act In The Event Of A Religious Issue. In Such Cases, The Prophet (Pbuh) Determined Lawmaking Methods By His Practice In “Fiqh”. The Prophet (Pbuh) Determined The Methods Of Lawmaking With His Practice Of Fiqh. It Should Also Be Remembered That Lawmaking Methods Were Not Compiled And Were Applied Based On Oral Knowledge.

#### **B. “Usul Al-Fiqh” Under The Companions (As-Sahaba)**

In The Time Of The Companions, There Were Already Several Rules For Making Norms. The Companions Followed These Rules In Making Decisions In Difficult Situations. In Determining The Punishment For A Drunkard, The Righteous Caliph Ali Used Such A Comparison:

In The Time Of The Companions, The Quran, Sunnah, Ijma' (Agreement Of Opinions), And Ijtihad (Diligence) Were The Fiqh Sources. At That Time, Lawmaking Methods Were Not Compiled In Compilations And Were Applied Based On Oral Knowledge.

#### **C. “Usul Al-Fiqh” Under The Contemporaries Of The Companions (Tabi'un)**

Under The Contemporaries Of The Companions (Tabi'un) Two Schools Were Formed: Al-Ar-Rai (Supporters Of Independent Opinion) And Al-Khadis (Supporters Of Tradition), Each Of Which Claimed Inherent Principles Of Lawmaking. In Extracting (Verbal) Norms (Hukm) Each School Acted On Its Principles And Rules. The Ahl Al-Hadith (Supporters Of Tradition) Was Closely Associated With The Qur'an And Sunnah. In Contrast, The Ahl Ar-Rai (Supporters Of Independent Opinion) Benefited Greatly From Such Methods Of Resolving Legal Issues As Al-Kiyas (Judgment By Analogy) And Al-Istihsan (Preferential Decision). During This Period Also, The Primary Sources Of Fiqh Remained The Qur'an, Sunnah, Ijma' (Agreement Of Opinions), And Ijtihad (Diligence, Diligence), While The Methods Of Lawmaking Were Still Not Compiled And Were Applied Based On Oral Knowledge.

#### **D. “Usul Al-Fiqh” Under The Mujtahid Imams**

Each Madhhab (Theological And Legal School) Claimed A Range Of Methods Peculiar To It, Applying Which It Made Judgments. At That Time, Each Madhhab Had Derivative Sources Peculiar To It. The Hanafis Used The Source Of “Al-Istihsan” (The Preferred Solution); The Shafi'i Opposed This. The Malikites Attached Great Importance To The Method Of “Al-Istislah” (The Pursuit Of Benefit). The Rules That Emerged During This Period And Were Previously Practiced Now Began To Be Gradually Assembled Into A Book. According To Ibn Hallikan, The First Book On “Usul Al-Fiqh” Was Abu Isuf (D. 182 Ah). However, This Book Had Not Come Down To Our Time. The First Extant Work On “Usul Al-Fiqh” Was A Book By Imam Ash-Shafi'i Titled "Al-Risala". The Author In His Book Explored Such Issues As “Ijmal” (Generalization), Bayan (Obviousness), “Amr” (Prescription), “Nahiy” (Prohibition), “Khas” (Private), “Nasih” (Abolishing), “Mansuh” (Abolished), “Sunnah” (Custom), “Ijma” (Agreement Of Opinions), “Kyias” (Judgment By Analogy), “Istihsan” (Preferable Solution). The Rules Of “Usul Al-Fiqh” Were Written Down And Compiled After The “Mujtahid Imams”. After Imam Ash-Shafi'i, Books Were Written Interpreting The Methods And Rules Of Lawmaking.

#### **Discussion**

Due To Islam's Specificity, This Process's Crucial Role Belonged To Muslim Jurists (Faqih). According To One Of The Basic Ideas Of Islam, There Was A Single World That Should Live According To The Sacred Religious Law Sent Down By God In The Quran, Embodied In The Sunna Of The Prophet Muhammad And Interpreted In Fiqh - A Body Of Science On The Principles And Rules Of Life Of A Muslim Family And Community [7].

The Ilm (Knowledge) "Usul Al-Fiqh" Explains The Rules That A Fiqh Must Follow When Deciding Not To Make A Mistake [8]. The Rules Of "Fiqh" (Al-Kawa'id Al-Fiqhiyyah), On The Other Hand, Were A Collection Of Similar Rules That Could Be Combined Into A "Fiqh" Rule.

If We Looked At These Works And Books, Some Of Them Dealt With Many Of The Topics Of "Usul Al-Fiqh", While Others Related To An Extraneous Field Of Knowledge, Which Contained Studies On The Basics Of "Fiqh", Much Or Little Of It.

Looking At The Specialized Books Before Us Revealed The Particular Importance Of Four Books, Each Of Which Deserved Its Study. These Included "Al-Risalah" Of Imam Ash-Shafi'i, "Al-Faqih Waal-Mutafaqih" Of Al-Ha'tyb Al-Baghdadi, "Raudat Al-Nazir" Of Ibn Kudama, "Sharh Al-Kawkab Al-Munir" Of Ibn Al-Najjar Al-Fatuhi.

### Conclusion

The Process Of Islam's "Sanctification" Of Local Traditions And Legal Norms And Its Transformation Into "Its" Religion Was Associated With The Formation Of A Local Class Of Religious Authorities And The Formation Of Local Spiritual Centers [9].

It Could Be Said That "Usul Al-Fiqh" Developed Along Different "Maskhabs" Separately And Along Their Paths Of Development. Each Branch Of The "Maskhabs" Defined Specific Trends In "Fiqh" (Jurisprudence) Methodology And The Foundations Of The Sources Of "Fiqh".

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