Ilm Essentials

Islāmic Scholarship

Lesson 1

Development of Islāmic Law

Early Islāmic Guidance

- Since no messenger was sent during the centuries prior to the Prophet (sallallahu alaihi wa sallam)
  - Mankind had firmly established themselves on many non-Islāmic habits
- Islām, early on, had very few rules and regulations
  - In order to focus on breaking the habit of idol worship
    - Also because a base level of freedom is necessary to act upon laws
- Focus was on strengthening the hearts and removing decades of ignorance and misconceptions
  - Working toward establishing a new ideological foundation

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Early Islāmic Guidance

- During this time, the only source of Islāmic guidance was through direct wahy
  - Either in the form of the Quran or sunnah
- Sometimes the wahy would establish something new
  - Sometimes it would modify or affirm something already in practice
- Sometimes it would come in relation to a specific circumstance, event or question
  - Making it easier for the sahābah to follow the new regulations, fully understanding their context
- Having the revelation come gradually lifted the burden of having 100s of rules thrust upon them all at once
  - Also allowed for a gradual weaning away from past ways

Desire for Guidance

- Whenever a new verse or ruling was revealed
  - The sahābah would rush to implement it
    - And ensure they never fell back into their old ways
- This was because they had an unending desire to please Allah
  - And recognized that Allah's pleasure was tied to acting according to His will
    - When the ruling came prohibiting alcohol
      - They immediately left alcohol and anything tied to it

Ruling Mandating Hijāb

- "Oh Prophet! Tell your wives and your daughters and the women of the believers to draw their outer garments over themselves" (Quran 33:59)
  - Aishah narrates
    - "(The women) cut their waist sheets at the edges and covered their faces with the cut pieces" (Bukhāri)
    - "May Allah have mercy on the early immigrant women. When the verse…was revealed, they tore their thick outer garments and made veils from them" (Abū Dāwūd)
- Umm Salamah narrates
  - "The women of the Ansār came out as if they had crows over their heads by wearing outer garments" (Abū Dāwūd)

Referring to the Prophet

- When questions or new situations would arise
  - The sahābah would seek the counsel of the Prophet (sallallahu alaihi wa sallam)
    - Because he was the source of wahy
      - And if he knew the answer he would give it
        - Otherwise he would wait for the wahy
- "Eat and drink until the white thread of dawn becomes clear to you from the black thread" (Quran 2:187)
- Sahābah who died due to incorrect ijtihād
  - "Verily, the cure to not knowing is asking" (Abū Dāwūd)
- Umar and the recitation of Quran by Hishām

Referring to the Prophet

- Still, the Muslim lands were growing and not everyone had direct, immediate access to the Prophet (sallallahu alaihi wa sallam)
  - So the most learned sahābah were dispatched to different areas to teach and lead the people
- So during this first stage of development
  - Direct recourse to the Prophet (sallallahu alaihi wa sallam)
  - Direct recourse to those qualified to answer in his stead

The Doors of Wahy Close

- With the passing of the Prophet (sallallahu alaihi wa sallam)
  - The opportunity to refer questions to him also passed
- But new questions and situations were constantly arising
  - So the sahābah turned directly to the wahy themselves
- "Oh you who believe! Obey Allah and obey the Messenger and those in authority among you" (Quran 4:59)
- "If you do not know, ask the people of remembrance" (Quran 21:7)
  - However not every sahābi would try to derive rulings himself
    - Most did not and simply followed the Quranic imperative of asking those who knew

The Doors of Wahy Close

- This stage set the pattern for all future generations
  - Everyone needs to follow the sharīah
    - Those issues which are well-known do not need to be asked about
      - When new, unclear or complicated issues arise
        - Refer them to the specialists
  - Simply exerting yourself based on what you know is not sufficient
    - Which is why the sahābah were chastised with regard to their ruling on ghusl

Referring to Sahābah

- During his own lifetime the Prophet (sallallahu alaihi wa sallam) indicated toward specific people for their knowledge
  - "Learn the recitation of the Quran from four: Ibn Masūd, Sālim (freed slave of Hudhaifah), Ubayy and Muādh ibn Jabal" (Bukhāri)

- "The most merciful person from my nation, to my nation, is Abū Bakr and the truest of them regarding the command of Allah is Umar and the shyest of them is Uthmān and the most knowledgeable of them regarding the recitation of the Quran is Ubayy ibn Ka'b and the most dutiful of them is Zaid ibn Thābit and the most knowledgeable of them as regards the permissible and the impermissible is Muādh ibn Jabal. Every nation has someone who is (known to be extremely) trustworthy and the trustworthy one of this nation is Abū Ubaidah ibn al-Jarrāh" (Tirmidhī)

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How Would the Sahābah Judge

- The Prophet (sallallahu alaihi wa sallam) asked Muādh ibn Jabal, when sending him as governor
  - According to what will you judge
    - According to the Book of Allah
  - And if you don't find it there
    - According to the sunnah of the Messenger of Allah (sallallahu alaihi wa sallam)
  - And if you don't find it there
    - Then I will exert myself to form my own judgment
  - Praise be to Allah who has guided the messenger of the Messenger of Allah to that which pleases Allah and His Messenger

How Would the Sahābah Judge

- The sahābah would also take mashwarah with one another
  - To see if others knew of a relevant narration
  - Or an interpretation of a narration or verse
  - Or merely to seek their opinion regarding an issue
    - This is one of the reasons why Umar kept a large number of sahābah in Madīnah
- Sahābah are known to have differed with one another on certain issues and rulings
  - But this did not lead to disunity or fighting
    - Also accepted that the final decision rested with the khalīfah

On the Path of the Sahābah

- This methodology then continued on with the coming generations
  - But it is being implemented under more difficult circumstances
    - Remaining sahābah spread throughout the ummah
    - Khilāfah turned toward kingship
      - Loss of central authority
        - Many scholars kept a distance from the rulers
    - Deviant sects started to form and grow
    - Authenticity of hadīth became a bigger issue
    - Scholarship became more compartmentalized

On the Path of the Sahābah

- You can see the effect on scholarship of the sahābah in different regions
  - Ibn Umar's methodology lived on in Madīnah
  - Ibn Masūd's methodology lived on in Kūfa
- Scholars in their respective regions continued on the work, taking in to consideration the specific circumstance and situation of their region
  - Had 100s of these master scholars
    - Some of them gained larger followings and had their opinions codified into a "madhhab"
      - Culminated with the 4 great imāms

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Sources of Islāmic Law

Branches of Fiqh

- Traditionally there were 5 branches included under the term fiqh (understanding)
  - Aqīdah
  - Ibādah
  - Mu'āmalāt
  - Mu'āsharāt
  - Akhlāq
- Means that our understanding of islām, īmān and ihsān all come from the same sources

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Masters of Fiqh

- A faqīh is an expert in the science of fiqh
  - Plural is fuqahā
    - "The faqīh is the one who is frugal in this world, desirous of the Hereafter, a person who has insight into his religion, who is constant in the worship of his Lord, who keeps himself well away from violating the characters of and property of Muslims, and who is an advisor to them" (Hasan al-Basrī)
      - Goes beyond simply learning rules and proofs

Sources of Fiqh

- 4 main sources of fiqh
  - Quran (primary source)
  - Sunnah (primary source)
    - Ijmā (scholarly consensus)
    - Qiyās (juristic analogy)
- A scholar will start by focusing on the 2 primary sources
  - If he doesn't find an answer, he moves to ijmā
    - And finally on to qiyās

Primary Sources of Fiqh

- ☐ Both the Quran and hadīth are wahy (divine revelation)
  - ◘ Referred to as nass (نَصّ) (i.e. textual evidence)
- ☐ Quran is preserved word-for-word
  - ◘ The only book (i.e. wahy) guaranteed divine protection
- ☐ Hadīth was preserved primarily based on meaning
  - ◘ Implicitly guaranteed
    - ■ Since we need hadīth to understand the Quran

Primary Source: Quran

- The Quran is the final word of Allah
    - Revealed to His final Prophet (sallallahu alaihi wa sallam)
        - It is both a source of legislation and of blessings

- The Quran provides a complete code of life for mankind
    - Not simply through a set of laws
        - But also through examples, stories, warnings, glad tidings, wisdoms, etc.
            - "This day I have perfected for you your religion and I have completed My favor upon you and I am pleased with Islām as a religion for you" (Quran 5:3)

Legal Verses

- Roughly 500 verses that deal with legal injunctions
  - Some of these are general
    - Ruling on salāh and Hajj
  - Some are specific
    - Legal punishments and inheritance
  - Some establish general principles
    - Justice, freedom, public interest, equality, etc.
- Not every legal ruling can be found in the Quran

Primary Source: Sunnah

- While the first primary source was revealed and taught through the Prophet (sallallahu alaihi wa sallam)
  - The second primary source stems directly from his words and actions
- But for the purposes of legal derivation, they are similar
  - "Nor does he speak from his own desires. This is nothing other than an inspiration, revealed upon him" (Quran 53:3-4)
    - "And We have sent down the Reminder to you so that you clearly explain to mankind that which is sent for them, so that they may reflect" (Quran 16:44)
  - So the reason why the Quran was not sent alone, is to ensure that we understand and implement it correctly

Primary Source: Sunnah

- Sunnah literally means a "way/custom" or "well-tread path"
  - Refers to anything that is attributed to the Prophet (sallallahu alaihi wa sallam)
    - In respect to his sayings, actions or tacit approval
- Sunnah can be broken down into 2 types
  - Sunnah al-hudā
    - Actions meant to drawn one near to Allah
      - Leaving these are blameworthy
        - Adhān and iqāmah, eating with the right hand
  - Sunnah az-zawā'id
    - Personal habits
      - Leaving these are not blameworthy, but performing them is rewarded
        - The way he walked or wearing white or his hair length
- Certain actions that he (sallallahu alaihi wa sallam) performed were unique to him

Primary Source: Sunnah

- The sunnah can establish rulings not mentioned in the Quran
    - Give the details of general rulings
        - Clarify something unspecific
- The sayings of the sahābah further enhance our understanding
    - For example the inferred meaning of "When the help of Allah and the victory come" (Quran 110:1)
        - Explanation of joining salāh by Ibn Masūd

Secondary Sources: Ijmā

- If there is no textual evidence regarding an issue, we turn to those with the best understanding of Islām
  - Sahābah, tābi'īn, tab tābi'īn and the scholars of each generation
    - "My ummah will never gather upon misguidance" (Ibn Mājah)
- If they reach consensus (ijmā) on an issue
  - That will be taken as the only acceptable position

Secondary Sources: Qiyās

- If there is no textual evidence regarding an issue and no known consensus

  - It is left to the foremost scholars of the day to try and deduce a ruling using the Quran and sunnah as a guide

    - "If a group from every expedition remained behind, to devote themselves to learning the religion, so that they may admonish their people when they return to them, so that they may guard themselves (against evil)" (Quran 9:122)

Secondary Sources: Qiyās

- Qiyās (juristic analogy) is to try and deduce the reason (illah) from an established ruling
  - And then apply it to a new, similar situation
    - For example buying and selling are prohibited after the adhān of jumuah
      - Through qiyās, this is extended to any type of transaction which would divert one from the prayer

Ijtihād

- The process of sifting through all the evidences to determine a ruling is called ijtihād
  - This can only be performed by qualified individuals
    - Has different levels
- If an issue arises which cannot be encompassed directly by the 4 sources
  - The scholars will then use their best judgment
    - Which must be based on the guiding principles of the Quran and sunnah
  - Some examples include
    - What is the definition of the face
    - How to quantify a large body of water
    - What is distance to be considered a traveler

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Questions and Discussion