

ISLAMIC LAW AND JURISPRUDENCE

1. What is Islamic Law (Shari'ah)?

Islamic Law (Shariah) is the legal and moral framework derived from Islamic teachings, encompassing all aspects of a Muslim's life, including personal, social, economic, and spiritual matters. The term "**Shariah**" literally means "a clear path to water" and metaphorically refers to the divine guidance provided by Allah for human well-being and success in both this world and the Hereafter. Shari'ah is the law that Allah gave to guide Muslims in how to live their lives. It includes rules for worship, daily life, family, business, and punishments for crimes.

Purpose of Shari'ah: To protect faith, life, mind, family, and property.

Sources of Shari'ah:

1. Qur'an: The holy book of Islam, revealed to Prophet Muhammad (PBUH). Allah says: "**Indeed, We have sent down to you the Book as a clarification for all things.**" (Qur'an 16:89)

2. Sunnah: The teachings and actions of the Prophet (PBUH). Sunnah refers to the actions, words, and approvals of Prophet Muhammad (PBUH). It is the second most important source of Islamic law after the Qur'an.

3. Ijma' (Consensus): Agreement of Islamic scholars on certain issues. Ijma' means the agreement or consensus of Islamic scholars on a specific issue. It is used to solve new problems that are not directly mentioned in the Qur'an. It helps Muslims deal with modern issues like technology, medical advancements, and new business practices

4. Qiyas (Analogy): Using logic to solve new problems based on old rulings. Qiyas (analogical reasoning) is one of the secondary sources of Islamic law used by jurists to derive rulings for new issues not explicitly addressed in the Quran or Sunnah. Qiyas involves applying an existing ruling to a new situation based on a shared underlying reason (illah). It ensures that Islamic law remains adaptable to evolving circumstances.

What is Fiqh (Islamic Jurisprudence)

Fiqh means “Islamic jurisprudence” or the human effort to understand the divine laws of Islam as outlined in the Quran and Sunnah. Fiqh is an Islamic term that refers to the understanding and application of Shariah (Islamic law) in practical, daily life. It is derived from the **Arabic word "faqiha,"** meaning "to understand deeply." Fiqh is essentially the process of interpreting and deriving rulings for various aspects of life based on Islamic sources. Fiqh means understanding and explaining the rules of Shari’ah for daily life. It helps Muslims know what is allowed (Halal) and not allowed (Haram).

Examples of Fiqh:

Rules for praying, fasting, and giving charity.

Allah says: "Establish prayer and give zakah and bow with those who bow [in worship]." (Qur’an 2:43)

Rules for marriage, divorce, and inheritance.

Allah says: "Allah commands you concerning your children: for the male, what is equal to the share of two females." (Qur’an 4:11)

Rules for business and trade.

Allah says: "Do not consume one another’s wealth unjustly." (Qur’an 4:29)

BRANCHES OF FIQH:

1. Fiqh al-Ibadat (Worship):

Deals with the rules and regulations for acts of worship that connect Muslims to Allah, such as prayer (Salah), fasting (Sawm), charity (Zakat), and pilgrimage (Hajj). These acts are considered the foundation of a Muslim’s relationship with God.

2. Fiqh al-Mu'amalat (Social Transactions):

Governs interpersonal and societal relations, focusing on legal, economic, and commercial activities. This includes marriage, divorce, inheritance, business

transactions, trade agreements, and governance. It ensures fairness, justice, and ethical conduct in daily life.

3. Fiqh al-Adab (Etiquette and Behavior):

Provides guidance on personal manners, ethics, and morality. This branch addresses the proper conduct in various aspects of life, such as greeting others, maintaining humility, and observing modesty and respect in social interactions.

4. Fiqh al-Siyar (International Relations and War Ethics):

Focuses on Islamic principles in international relations, covering topics like treaties, diplomacy, and the conduct of war (including the laws of armed conflict). It emphasizes the humane treatment of prisoners, non-combatants, and the environment during wartime.

5. Fiqh al-Jinayat (Criminal Law):

Deals with the laws related to crimes and their corresponding punishments, such as theft, adultery, and murder. It also includes the processes for seeking justice and ensuring fair trials in accordance with Islamic principles.

6. Fiqh al-Mawarith (Inheritance Law):

Establishes the rules for the distribution of inheritance among family members. This branch specifies how wealth should be divided after death, ensuring that each heir receives their rightful share based on Islamic inheritance laws.

7. Fiqh al-Tibb (Medical Jurisprudence):

Provides guidance on medical ethics, procedures, and health-related issues. This includes topics like organ donation, medical treatments, and end-of-life care, ensuring that they align with Islamic ethical values and the sanctity of life.

8. Fiqh al-Ahwal al-Shakhsiyyah (Personal Status Law):

Governs personal and family matters such as marriage, divorce, custody, and guardianship. It ensures that the rights and responsibilities of individuals within the family unit are respected and in accordance with Islamic principles.

SOURCES OF FIQH:

1. **Quran:**The holy book of Islam, containing the direct guidance from Allah.
2. **Sunnah:**The sayings, actions, and approvals of the Prophet Muhammad (PBUH).
3. **Ijma:**The consensus or agreement of Islamic scholars on a specific issue.
4. **Qiyas:**Analogical reasoning, applying rulings from similar cases in the Quran and Sunnah.
5. **Istihsan:**Juridical preference based on fairness and the spirit of justice.It refers to a legal ruling where a scholar chooses a solution based on fairness or the better outcome even if it goes against strict analogy or literal text.
6. **Istislah:**Decisions made for the public welfare and interest.It involves making decisions that are in the best interest of society.
7. **Urf:**Local customs and practices, as long as they do not contradict Islamic teachings.It reflects the idea that local customs can be adapted as long as they do not conflict with core teachings of Islam.

Goals of Shari'ah

Shari'ah aims to make life better for everyone by protecting:

1. **Faith (belief in Allah).** It includes Protection of Faith (Hifz al-Deen).Ensures the right to practice and preserve one's religious beliefs.Promotes a society where people can worship freely without coercion or suppression.Includes rules related to acts of worship, freedom of belief, and prohibition of apostasy in certain contexts
- 2.**Life (keeping people safe).** Allah says: "**Whoever saves one [life] – it is as if he had saved mankind entirely.**" (Qur'an 5:32) Safeguards the sanctity of human life.Prohibits harm, murder, or any act that endangers lives.Provides rules for self-defense, health preservation, and deterrent punishments for crimes like murder
- 3.**Mind (learning and avoiding harmful things).**
Encourages the pursuit of knowledge and intellect.Prohibits anything that impairs mental capacity, such as intoxicants or harmful substances.Supports education, critical thinking, and informed decision-making.
- 4.**Family (marriage and children).** Preserves the family structure and societal morality.Promotes marriage and family cohesion while discouraging practices like

adultery or illegitimate relationships. Protects the rights of children and ensures proper upbringing

5. Wealth (property and money). Safeguards ownership and the fair distribution of wealth. Prohibits theft, fraud, and exploitation. Encourages lawful earning, economic justice, and charity to support the less fortunate

Fiqh helps Muslims adapt to new situations while staying true to Islamic principles. It ensures justice, fairness, and good relationships in society. **Allah says: "Indeed, Allah commands you to render trusts to whom they are due and when you judge between people to judge with justice." (Qur'an 4:58)**

Differences Between Shariah and Fiqh

1. Definition:

Shariah: Divine law revealed by Allah.

Fiqh: Human interpretation of Shariah.

2. Scope:

Shariah: Covers all aspects of life.

Fiqh: Focuses on practical application.

3. Sources:

Shariah: Based on Quran and Sunnah, ijma and Qiyas

Fiqh: Based on Quran, Sunnah, Ijma, and Qiyas and istihsan

4. Nature:

Shariah: Fixed and unchanging.

Fiqh: Dynamic and evolving.

5. Legal Authority:

Shariah: Absolute law from Allah.

Fiqh: Subject to scholarly opinion.

6. Role:

Shariah: Ultimate guidance for Muslims.

Fiqh: Practical solutions for daily issues.

7. Changeability:

Shariah: Immutable.

Fiqh: Can change over time.

8. Application:

Shariah: General principles

Fiqh: Specific legal rulings.