

Origin and Theoretical Development of Islamic Shari`ah: An Overview

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Abstract:

Islam is a complete system of life. The proper solution of all aspects of human life has been described in Islam. From personal life to family, social, political, economic, all issues are found in Islam. Al-Quran, Sunnah, Ijma and Qiyas are the main sources of Islamic Shari`ah. Although these four issues are basic, the details of Islamic law, including the interpretation and analysis, the underlying purpose, beauty, rationality, importance and significance have been described in the Islamic Shari`ah concept. Some scholars in today's Muslim world ignore the importance, significance, and underlying causes of Islamic Shari`ah. On the other hand, a number of Orientalists have proposed all the objectives of Islamic law derived from al-Qur'an and Sunnah as Islamic Shari'ah, which is capable of bringing real welfare to human beings in practical life. Therefore, in order to determine the originality of the Islamic Shari'ah, it is very important for a Muslim to be fully aware of the origin and development of its theoretical concepts. In this context, the purpose of this article is to give a theoretical review of the Islamic Shari'ah, including its origin and development. Discussion has shown that although Shari'ah has not been established as a theory since the beginning of Islamic doctrine, it has remarkable importance in al-Qur'an and Sunnah. Therefore, later jurists, including the Companions of the Prophet's, have practiced ijtihad by applying the Shari'ah theory, and have revealed Islamic rules in many areas of human life. Henceforth in the twelfth century AH it was proposed as a distinct branch of knowledge. As the subject matter of this article is important, so the nature, origin and development of Islamic Shari'ah have been discussed here in this area.

Key Words: Shari`ah, Fiqh, Al-Quran, As-Sunnah, Prophet (s.), Kholafaye Rashedin, Ijtihad, Zakat, Sahabi. Tabe`i etc.

Introduction

The word Shari`ah means: straight path, method, law, provision, water fountain etc. Some say Shari'ah means the system of life introduced by Allah Ta'ala and the Prophet (s.) including the description of all aspects of human life, worship, practical life, hudud, qisas, etc. But the essence of Shari'ah is to bring success to man in this world and in the hereafter by achieving all that is good and avoiding all that is harmful. It is recognized that Islam is a way of life. The overall rules of this system of life have been formulated to establish peace in the world and ensure the welfare of humanity. Therefore, from the beginning of human creation, Allah Ta'ala has sent Prophets and Messengers to lead mankind on this earth in a beautiful and peaceful way and has sent down the befitting scriptures. Every divine book contained the rules and regulations necessary for the welfare and smooth management of contemporary human society. These rules are basically referred to as Shari`ah. However, the basic purpose of Shari'ah is to provide

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guidance for the welfare of human beings by preserving the fundamental rights of the people. Allah Ta'ala and His Messenger Muhammad (s.) have given the instructions of laws, rules, principles, halal-haram, time, limits, legal and illegal. The integrated form of them and the principles are called Shari'ah. Shari'ah is Allah's will for huminity as revealed to the prophet Muhammad (s.), the sum total of religious values and principles that can guide Muslims' lives. For this reason, from the beginning of the philosophy of Islamic law, Shari'ah has taken a theoretical form in the Ijtihad of Muslim scholars at different stages. In its continuation, its practical and theoretical review has been going on till date. Therefore, in this article, an attempt has been made to give a brief discussion about the origin, nature and development of Islamic Shari'ah.

2. The lexical meaning of Shari'ah

From a lexical point of view, the word Shari'ah is an Arabic term (al-shari'ah). Its lexical meaning is the path to the reservoir or well, the clear path to follow or the water around which the thirsty people gather and drink it, legality, legitimacy, lawfulness, etc.¹

Imam Raghīb al-Ispahani²(d.502 AH) said that the reason for calling Shari'ah by this name is that a person who accepts Shari'ah properly becomes pure like pure water.³ The use of the word Shari'ah can be seen in verse 18 of Surah al-Jasiyah, verses 13 and 21 of Surah ash-Shu'ara and verse 48 of Surah al-M'aidah. as mentioned in al-Quran:

﴿ثُمَّ جَعَلْنَاكَ عَلَىٰ شَرِيعَةٍ مِّنَ الْأَمْرِ فَاتَّبِعْهَا وَلَا تَتَّبِعْ أَهْوَاءَ الَّذِينَ لَا يَعْلَمُونَ﴾

"We have put you on the right way (Shari'ah) in the matter (of divine law), So follow it and do not follow the wishes of those who are ignorant."⁴

In modern times, the word Shari'ah is especially used to express the following two meanings:

First: when it comes to the meaning of the religion, it refers to everything in Islam, including "belief, worship, etiquette, law and social transactions." In other words, the basic and branches of Islam and all the theoretical and practical aspects are included in the Shari'ah. So Dr Badavi (d. 1962 AD) said that it is not proper for people to act outside the guidelines of Shari'ah in any field of life but what is good and beneficial for people is the principle of Shari'ah. Branches such as secondary policies, family policies, guidelines for daily activities, politics or provisions of the economy are all included in this welfare of Shari'ah.⁵

Dr. Badavi further said that people make two kinds of mistakes in the context of Shari'ah. A group of people think that the Shari'ah is incapable of meeting their needs and doing good due to ignorance and just following instinct. That is why they go beyond the boundaries of Shari'ah and obedience to Allah and His Messenger. Another group narrows the (comprehensive) scope of the Shari'ah due to their inability to understand the importance and greatness of the Shari'ah. As a result, they think with others, that it is not possible to follow the instructions of the Shari'ah. The main reason for such an idea is their ignorance of the terminology and greatness and comprehensiveness of the Shari'ah.⁶

Second: Shari'ah reveals the meaning of fiqh. Fiqh refers to the practical provisions of Islam by the Shari'ah, which include worship, mu'amalat or business transactions, family affairs, social system, state management and international relations.⁷

From this point of view, the meaning of Shari'ah can be further clarified by saying that the legal aspect of Islam is called Shari'ah. However, it is different from the conventional legal system and is more efficient and effective. It has some special features that set it apart from all other legal systems.⁸

3. The technical definition of Shari'ah

Many of the preceding scholars did not provide a comprehensive definition of Shari'ah. However, they thought that everyone with knowledge of the Shari'ah was aware of its meaning. Modern scholars have given different definitions of Shari'ah. Here are some definitions in this regard: Mawlana Muhammad Abdur Rahim⁹ (d.1987AD) said in defining the Shari'ah,

﴿الطريقة المستقيمة التي يفيد منها المتمسكون بها هداية و توفيقا﴾

"A strong and upright path by which those who follow it can find guidance and a consistent course of action."¹⁰

In this regard, Dr.Abdul Karim Zaydan said, "The rules that Allah Ta'ala has issued for His man are called Shari'ah. That provision can be determined on the basis of the al-Qur'an or the words, deeds or consent of the Prophet (s)."¹¹

In this regard, Ibn Ashur (1879-1973 AD) said:

"Almost all the provisions and guidelines of Islam have human welfare oriented ideology. This inherent mystery and welfare is observed in almost all the rules and guidelines of Islam."¹²

Dr. Yusuf al-Qaradawi¹³ (b. 1928) said:

﴿الغايات التي تهدف إليها النصوص من الأوامر والنواهي والإباحات -وتسعى الأحكام الجزئية إلى تحقيقها في حياة المكلفين أفراداً وأسراً وجماعات وأمة-﴾

"The objectives of the Shari'ah (Al-Qura'n and Sunnah written documents) which are to be achieved through prescribed commands, prohibitions and mubah (lawful) actions and the purpose of the minor provisions of (Islam) in the personal, family, collective and national life of the people. That is called Shari'ah."¹⁴

Islamic Shari'ah refers to those rules which Allah has ordained for His men with the responsibility of implementation, so that they may believe in them and act accordingly in order to be fortunate in this world and in the Hereafter.¹⁵

Sometimes it means religion by Shari'ah. Then it means the way of life brought by the Prophet (s.) in order to guide humanity to the right path, so that they have guidance on 'Aqidah, faith, worship and all other external matters.¹⁶

Shaykh Mahmoud Shaltut said in this regard that Islamic Shari'ah refers to all those rules and principles introduced by Allah Ta'ala so that man has a relationship with his Lord, his relationship with a Muslim brother, his relationship with common people and his life and world.¹⁷

After all, Shari'ah means the system of life introduced by Allah Ta'ala and the Prophet (s.), And this Shari'ah is a complete system of life for the welfare of the man from Allah Ta'ala, including the description of all aspects of human life, worship, practical life, hudud, qisas, etc.

4. Essentiality of Shari`ah

In the world, people live a socialized life. For this, they need a provision that will determine their relationship and determine the limits of their rights. Everyone's arbitrariness will be limited and regulated by law. Without this system, people's lives will become miserable. Because people are naturally selfish and self-centered. It is the natural tendency of every human being to magnify his own advantages and interests. If it is not regulated by law, then mutual oppression, deprivation of rights and social catastrophe will be its inevitable consequences. In such a situation the rights and freedoms of the people will be violated. The mighty and the conspirators will be victorious in all respects. For this reason, human nature has always felt an urgent need for a system and provision. That will ensure the rights and place the individual in the society, will determine the scope of work for everyone and no one should interfere in the rights of anyone. In fact, without such a fair and comprehensive system, human social life would not be possible. That is why the Shari'ah revealed by Allah Ta'ala, like innumerable other blessings, has become a mercy for the world humanity. It is on this basis that all the problems of the people can be solved and their mutual disputes can be settled amicably.¹⁸ Allah Ta'ala has given the provisions of this Shari'ah on innumerable Prophets (AH) throughout the ages. This is stated in the Holy Qur'an,

﴿شَرَعَ لَكُمْ مِنَ الدِّينِ مَا وَصَّى بِهِ نُوحًا وَالَّذِي أَوْحَيْنَا إِلَيْكَ وَمَا وَصَّيْنَا بِهِ إِبْرَاهِيمَ وَمُوسَى وَعِيسَى أَنْ أَقِيمُوا الدِّينَ﴾

"He has laid down for you the (same) way of life and belief which He had commended to Nuh, and which We have enjoyed on you, and which We had bequeathed to Ibrahim, Musa, and Esa (A.) so that they should maintain the order (Din)."¹⁹

Man is dependent on the provision of the five things that he needs in his life, his reliable guarantee is possible only on the basis of this provision. Those five things are: religion, life, lineage, wealth and all intellect of conscience. Because on the basis of these five things, a person can maintain a relationship with his Creator and the life given by Allah Ta'ala can also be truly grateful for the wealth. The Shari'ah given by Allah Ta'ala is the proper rule for the establishment of justice and fairness among the man. This is Allah's great mercy towards creation and His special grace towards humanity.²⁰

Allah Ta'ala did not leave His servants alone in their own conscience to form own and prosper in this world. Rather, He has freed them from it by giving them the provisions of the Shari'ah. Because no man-made provision is free from the influence of arbitrariness and rapacity. Only the provision of the Shari'ah of Allah Ta'ala is free and holy from it. Because Allah Ta'ala Himself is the creator of this provision and man is His creation. He sent this Shari'ah rule so that people would follow it in their lives. Allah Ta'ala Himself is free and pure from all kinds of bias. All people are His creation. In this respect, everyone is equal to him. No one is his own, no one is far from him. The real condition of the whole creation is clear to him. No human being can have such vast abilities and qualifications. It is not possible for everyone to be equally aware of their unique and different conditions at the same time. As a result, even if man-made provisions are free from whimsy and selfishness and bias, they cannot be free from errors and imperfections. When a large number of people get together, they get involved in disagreements. In addition,

people are forced to change the decision today, considering all aspects, the next day. So it is said that human provisions are changable. In this case, the provision of Shari'ah is eternal and ever-lasting. There has never been any change in it.²¹

5. Difference between Shari'ah and Fiqh

Allah Ta'ala has provided methods, rules and regulations to obey Him in the Islam. Orders and prohibitions have been issued. He made many things lawful and halal, similarly some things haram and unlawful. He has fixed time and boundaries in many matters. These are all Shari'ah.

Islamic law is the most comprehensive legal framework that guides the life of the mankind in this world and Hereafter. It contains Shari'ah and Fiqh which together form a legal rulings and regulations. Shari'ah comprises of basically al-Qur'an and Sunnah, which are the primary sources of Islam. Shari'ah tells us how to perform the obligations in accordance of Allah's will, while Fiqh is subject to human involvement where the importance of research comes in this matter. The practicality and application of Divine law needs specialists who specialize and expertise in Islamic jurisprudence to come legal rulings at the level of Fiqh, these specialists are called Jurists or mujtahid. The specialist must recognize the issues related to authenticity, abrogation and supersession in the time of interpreting and deriving legal framework from Shari'ah. An example of Shari'at can be given as follows. For example, a highway and from this highway various small roads go in different directions. Here the highway is Shari'ah and minor roads are Fiqh.

Shari'ah is the combination of Islamic teachings and legal systems which was revealed to prophet (s.) recorded in the Quran as well Sunnah. Shari'ah is the comprehensive regulatory framework for all mankind. It basically contains duties and a code of obligations. In the Islamic legal framework Shari'ah is regarded as the rules and commandments that were prescribed by Allah Ta'ala to mankind. It consists of commands, prohibitions, guidance, policies and principles that Allah Ta'ala made it mandatory to mankind pertaining to their conduct in this world and salvation in the Hereafter.²²

Fiqh is a huge collection of juridical opinions that were given by various jurist from multiple schools of thought, in regards to the application of Shari'ah to their real-life situations after the death of the prophet (s.). Fiqh is the human understanding of the Shari'ah and implemented by the rulings (Fatwa) of jurists. What this essentially means is that, whereas Shari'ah is considered immutable and infallible, Fiqh is considered fallible and changeable. Which is why it has so many different opinions and it is acceptable.

In summary, the significant difference between Fiqh and Shariah are:

- Shari'ah is broad and general. Fiqh focuses on narrow and specific issues.
- Shari'ah cannot be changed. But Fiqh can change based on new information
- Shari'ah comes from the Quran and Sunnah. Fiqh comes from the Shariah.²³

6. Origin and Theoretical Development of Shari'ah

6.1 Shari'ah in the commentary of al-Quran and Sunnah

Al-Qur'an contains many beneficial teachings and Knowledge. In this regard, Imam Ibn Qayyim al-Jawziyyah said,

﴿والقرآن وسنة رسول الله صلى الله عليه وسلم مملوان من تعليل الأحكام بالحكم والمصالح... ولو كان هذا في القرآن والسنة في نحو مائة موضع أو مائتين لسقناها ولكنه يزيد على ألف موضع بطرق متنوعة﴾

"The Qur'an and the Sunnah are full of many scientific sayings and descriptions of public welfare, which describe the causes and purposes of the provisions... If such descriptions were in one hundred or two hundred places in the Qur'an and Sunnah, I would have mentioned all of them, but there are more than a thousands of references to al-Quran and Sunnah in different ways.²⁴"

As mentioned in the Qur'an,

﴿يُرِيدُ اللَّهُ بِكُمْ الْيُسْرَ وَلَا يُرِيدُ بِكُمْ الْعُسْرَ﴾

"Allah wants to adopt a soft policy with you, not a hard policy."²⁵

In this verse Allah Ta'ala mentions a general purpose of Shari'ah, which is simplicity. In all aspects of Islam, Allah Ta'ala has imposed the rule of ease. Islam has made it easy for people to face hardships in a real way. Therefore, from time immemorial, the mujtahids have adopted various scientific methods easily to present the provisions of Allah Ta'ala. The Prophet (s.) used to take the simplest approach to the rules of the Shari'ah and encouraged the ummah to adopt the simplest approach.

Allah Ta'ala says:

﴿خُذْ مِنْ أَمْوَالِهِمْ صَدَقَةً تُطَهِّرُهُمْ وَتُزَكِّيهِمْ بِهَا وَصَلِّ عَلَيْهِمْ إِنَّ صَلَاتَكَ سَكَنٌ لَهُمْ وَاللَّهُ سَمِيعٌ عَلِيمٌ﴾

"O Prophet! Purify them with charity from their wealth, purify them with it, and pray for them. Your prayers will comfort them. Allah Ta'ala is Hearer, Omniscient."²⁶

In this verse, Allah Ta'ala has given two instructions. One is the purification of one's wealth from the filth mixed with the rights of others through charity, and the other is the purification of one's heart from the greed for wealth. Again, the purpose of praying for his companions by the Prophet (s.) is that it is an occasion for their peace. In this regard, the Prophet (s.) said,

عَنْ أَبِي هُرَيْرَةَ: قَالَ: دَخَلَ أَغْرَابِيَّ الْمَسْجِدَ وَالنَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ جَالِسٌ. فَصَلَّى. فَلَمَّا فَرَغَ: قَالَ: اللَّهُمَّ ارْحَمْنِي وَمُحَمَّدًا وَلَا تَرْحَمْ مَعَنَا أَحَدًا. فَالْتَفَتَ إِلَيْهِ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ. فَقَالَ: «لَقَدْ تَحَجَّرَتْ وَاسِعًا». فَلَمْ يَلْبَثْ أَنْ بَالَ فِي الْمَسْجِدِ. فَأَسْرَعَ إِلَيْهِ النَّاسُ. فَقَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «أَهْرِيقُوا عَلَيْهِ سَجَلًا مِنْ مَاءٍ - أَوْ دَلُّوا مِنْ مَاءٍ -». ثُمَّ قَالَ: «إِنَّمَا بُعِثْتُمْ مُبَسِّرِينَ وَلَمْ تُبْعَثُوا مُعَسِّرِينَ»

Hazrat Abu Hurairah (r.) narrated that a Bedouin (desert dweller) came and entered the Nawabi Mosque. The Prophet (saw) was sitting there then. The man prayed. Then he said at the end of the prayer: O Allah, have mercy on me and on Muhammad. Don't pity anyone else with us. The Prophet (saw) looked at him and said, "You have narrowed the wide mercy. The man urinated in the mosque after a while. People rushed towards him. The Prophet (s.) said: Pour a bucket of water over his urine. He said again: "You were sent to make things easier, not harder."²⁷

The Prophet (saw) added:

إِنَّمَا جُعِلَ الْإِسْتِئْذَانُ مِنْ أَجْلِ الْبَصَرِ

"Permission has been made for the protection of the eyes."²⁸

In this Hadith, the Prophet (saw) commanded to seek permission before entering anyone's room or house. The other purpose of this is to protect one's eyes from the inconvenience and crime of seeing someone in an unwanted or unattended state. Thus, the Shari'ah has been established through the direct and indirect Nas (text) of al-Quran and Sunnah.

6.2 Shari'ah in the age of Prophet (s.)

The Prophet (s.) used to make laws with the approval of the Shari'ah given by Allah Ta'ala. Allah Ta'ala has endowed His prophet (s.) with power as the promoter of Shari'ah. This is stated in the Qur'an,

﴿وَمَا يَنْطِقُ عَنِ الْهَوَىٰ- إِنْ هُوَ إِلَّا وَحْيٌ يُوحَىٰ﴾

"Neither does he speak of his own will. This is only revelation communicated." ²⁹

In another verse, Allah says,

﴿وَمَا آتَاكُمُ الرَّسُولُ فَخُذُوهُ وَمَا نَهَاكُمْ عَنْهُ فَانْتَهُوا﴾

"Accept what the Messenger gives you, and refrain from what he forbids." ³⁰

Since the establishment of the state of Madinah, the Prophet (s.) used to administer of law and justice in combination with the Qur'an and the Sunnah. According to Article 23 of the Medina Charter, the Prophet (s.) was the sole and final judge in all disputes. It is clearly stated in paragraph 42 of the said Charter that when there is a quarrel among the people which may lead to something catastrophic, it is necessary to submit it to Allah and His Prophet (s.) for settlement. All the rules and regulations of the Islamic Shari'ah were revealed during the long twenty three years of the life of the Prophet (s.).³¹ At this time the Prophet (s.) had the provision of basic matters including criminal law, civil, family, social, economic, political, state and foreign affairs, religion, war policy, moral rules, halal-haram, social behavior, transactions, inheritance, distribution of wealth, etc. is revealed. The Prophet (s.) ruled the society and the state in the light of all these provisions. The Prophet (s.) used to sit in the mosque of Medina and perform the duties of chief justice and ruler.

In short, during the lifetime of the Prophet (s.) all the rules and regulations were revealed. The Prophet (saw) himself used to solve the problems or questions that he faced by the people. As a result, there was no inconvenience in his own case regarding the provisions of the Shari'ah. However, in the case of people other than Him and the Companions, the guarantee of a smooth solution to that problem was the life and presence of the Prophet. He would always stay among them and they could ask him about any matter and get the necessary Shari'ah provisions. In addition, people did not need to know the provisions of Shari'ah in any other way. They did not need their own thoughts or research to know the provisions of the Shari'ah.³²

However, it is not universally true that no Companion of the Prophet (s.) studied the Shari'ah in this age. Those Companions who stayed away from the Prophet (s.) and who did not have the opportunity to ask the Prophet (s.), must study the Qur'an and Hadith they knew in order to understand the basics. But they did it only out of necessity. The case of Mu'aj ibn Jabal can be mentioned as an example. The Prophet (s.) was not only pleased to hear Mu'aj ibn Jabal's answer, but also expressed his satisfaction. Because it was not possible to run the government by staying in Yemen and asking the Prophet (s.)

everything. Some of the Companions sat in front of the Prophet (s.) and did ijtiḥad or research with his permission. But it was only a matter of time. It was not ijtiḥad in the eyes of fiqh. This ijtiḥad can only be called the ijtiḥad of that period. According to some, it was not an ijtiḥad but an expression of opinion on matters of state and war. Because at that time there was no room for ijtiḥad in the basic matters of Shari'ah. Since this is the real field of thought of the jurists and their ijtiḥad. Therefore, if anyone has done any research during the lifetime of the Prophet (s.), it cannot be called ijtiḥad. It's just an opinion on something special. In the light of this discussion, it can be said that he himself did not make such a fiqhijtiḥad and never faced such a need in his life. Yet he has occasionally made such ijtiḥads in matters of state and war management in general matters.³³

6.3 Islamic Shari'ah in the era of Khilafath

In the era of Kholafaye Rashedin (632-661 AD), the system of governance and justice was conducted entirely in accordance with the teachings of the Qur'an and Hadith. Every citizen, irrespective of Arab or non-Arab, rich or poor, is equal in the eyes of Allah, just as all citizens were equal during their rule. The example of equality and brotherhood that the Prophet (s.) and Kholafaye Rashedin established in the heart of the world was unprecedented. That is why Jews, Christians, Sabians all got the citizenship of the Muslim state. Hasan Ali Chowdhury, according to the historian Amir Ali,³⁴ said, "The example of equality and brotherhood that the Prophet (s.) and Khulafaye Rashedin set in the world was unprecedented."³⁵

During the caliphate of Hazrat Umar, Islamic Shari'ah was perfected, every aspect of the Islamic way of life developed and became established during this time. At the same time, during the reign of Kholafaye Rashedin, Islamic Shari'ah was established in its own right. At this time a shura or advisory council was formed in the Majlis for the smooth running of the administration. The council was formed with prominent people from Muhajir, Ansar and other famous person of Medina. During the reign of Kholafaye Rashedin, the provincial system of government, the revenue system, the police force, the military system, the judiciary, the naval department, the religious system and the education system were reorganized in order to complete the Islamic Shari'ah. During the time of the caliphs, great public works were done. They paid special attention to the development of agriculture and trade for the welfare of the people. Arrangements were made to survey land in Egypt, Syria, Iraq and southern Persia. Amr Ibnul 'As dug the Suez Canal with the permission of Caliph Umar for the purpose of establishing direct communication between Egypt and Arabia. Abu Musa, Sa'd and Malik were also excavated in the canal. Along with this many state buildings, government offices, warehouses, prison cantonments, guest houses, transport, roads and pools etc. were constructed. Many Maktabas and Madrasas were established in different places of the caliphate. In this time, holy Mashjidul Haram is being rebuilt and expanded.³⁶

In this era, the administration of justice was done by civilian judges appointed by the caliphs. The caliph was the supreme judge. He would, if necessary, grant the appeal of the judgment of the lower court. One Chief Justice for each province and one Kazi for each district. The Judges were appointed by the Caliph on the advice of the Shura, considering honesty, lineage, legal expertise, etc. For the sake of fair trial, Umar (r.)

completely separated the judiciary from the administration. The Qazis conducted their judgments in accordance with the instructions of the Qur'an and Hadith and with the opinion of experts on Shari'ah. They performed their duties impartially and faithfully, without any discrimination. Equality in the eyes of the law is a fundamental basis in the overall system, regardless of political or social system. Caliph Umar's (r.) famous admonition to Abu Musa al-Ash'ari says, "You will treat everyone equally in judgment, otherwise the fortunate will expect your bias and the weak will despair of your judgment." Reliable or not, these rules are found in every law text and they are the basis of criminal and civil law.³⁷

Judicial system of Islamic Shari'ah was restructured during the time of Kholafaye Rashedin. The Justice and qazis were appointed by the caliphs at the discretion of the shura and they received a hefty salary. Their title was Hakim. At that time the Qazis were not as influential as before. During the time of the Abbasid Caliphs, the judiciary was called Darul Adal and the Chief Justice was the head of the Darul `Adal and then the judiciary was separate and independent from the executive branch.³⁸

6.4 Fiqh in the Ijtihad of the Companions of the Prophet(s.)

The Companions were very much aware of the Shari'ah and they used it in their opinion. The rules of the Qur'an and the Sunnah which are related to a specific cause and if that reason did not exist later, the Companions would change that provision. An example of this is the provision of paying zakat to a non-Muslim in order to attract him to Islam. This provision has been narrated through the Qur'an and the Prophet (s.) has implemented it. On the basis of this, the simplicity and comprehensiveness of Shari'ah has been established.

After the Prophet (s.), the election of Hazrat Abu Bakr (r.) as Caliph was not an accidental or emotional decision. Rather it was based on the approval of the Prophet (s.) to represent. The Prophet (s.) ordered Abu Bakr (R.) to lead the prayers when he was ill before his death. This performance of Imamah by Abu Bakr (r.) indicates his representation in the absence of the Prophet (s.). Therefore, after the death of the Prophet (s.), the Companions elected Abu Bakr (r.) as the first Caliph of Islam before burying Him (s.). The purpose of electing a caliph at this critical time was to establish order in the Muslim world and to stop any kind of sedition.³⁹ Even after the demise of the Prophet (s.), Abu Bakr (r.) used to pay a portion of Zakat to attract non-Muslims to Islam and to keep the new Muslims steadfast in Islam because he thought that the provision of giving Zakat to them was still in force. But Umar (r.) stopped paying zakat to them during his reign. In order for them to receive zakat, he actually said to them: "The Prophet (s.) used to protect your minds because Islam was weak at that time. Now Allah Ta'ala has made Islam free from such complacency."⁴⁰ It should be noted here that in the time of the Prophet (s.) and Abu Bakr (r.), Islam was relatively weak due to the small number of Muslims. Therefore, in the interest of defending the religion, they used to appease non-Muslims by paying zakat. But in the time of Umar, (r.) Islam became stronger with the increase in the number of Muslims and the spread of Islam, and the complacency of those who defended the religion became unnecessary. So he stopped giving zakat to them as there was no need to protect the deen or sharia by giving them zakat.

Another example of this is the case of a man named Huzaifah (r.) marrying a Jewish woman. Upon hearing the news of Huzaifah's marriage, 'Umar (r.) sent him a notice asking him to divorce her. Huzaifa (r.) asked in his reply, is such a marriage forbidden? Umar (r.) said, no! However, I fear that if Muslims imitate you in this regard, the beauty of the hostage (Jewish) women will be attracted and they will choose to marry them, then it will be enough to seduce Muslim women.⁴¹ It should be noted that the negative aspect of not marrying Muslim women was not clear to anyone in the society of that time. In this way wickedness infiltrates the society. Basically it was 'Umar's (r.) jurisprudential decision; not a permanent shari'ah decision. So it can be implemented as temporary in the public welfare of the state.

In the caliphate of Umar (r.) a man stole from the state treasury due to lack of money. Upon hearing this news, Umar (r.) sent a decree to the duty judge not to cut off the hand of that person. Because surely he has the right to Baitul Mal. In the same way he forbade cutting off hands as a punishment for stealing during famine. The implementation of this command is seen when a group of people are brought before him who slaughter and ate a stolen camel. He found out that their leader had left them hungry. Aiming at this leader, Umar (r.) said, "You are using the people of your tribe for various state purposes, while you have kept them hungry." If they steal again, I will punish you in such a way that the weight of the fine will break your back.⁴²

If anyone found a lost camel, Uthman (r.) would order him to report it to the people. Even if the owner of the camel cannot be found, he has to sell the camel and keep its price. The money had to be handed over to him as soon as the owner was found. It was not the custom in the time of the Prophet (s.) to inform people to return lost things without accepting them. This is because the people of that era were aware of the practice of Islam and unjustly had no greed for the wealth of others. But Uthman (r.) enacted this law in order to protect the property of others. At the same time, the door of inaction on the other's property will be closed. By this, the purpose of protecting the property of Islamic Shari'ah has been implemented. It was a temporary jurisprudential decision of 'Uthman (r.) in the context of the situation. So no permanent solution can be given based on this..⁴³

Ali (r.) introduced the law of fines in respect of deposits (Amanat). The provision of deposit (Amanat) in Islam is that there is no penalty if the depositor loses or destroys the deposit (Amanat). If you order an industrial owner or manufacturer to make a product, the product will be treated as a deposit (Amanat) with the manufacturer or factory owner until it is handed over to the buyer. This provision was unanimous since the time of the Prophet (s) and was widely used at that time. So even if someone forced a manufacturer to destroy someone's ordered product, he would not be fined. But later in the era of Kholafaye Rashedin, greed for wealth and betrayal of trust entered the hearts of some people. Eventually, on the pretext of spoiling the ordered goods, many people started claiming the property of others and these issues started coming up in large numbers in the court of Qazi. In this situation, if the manufacturers are released without penalty for wasting the product, the violation of boundaries in the society becomes widespread and human goods are wasted. Considering this point of view, the Companions of the Prophet (r.) enacted the law of fines. This was also the ijtiha and

provisional jurisprudential decision of 'Ali (r.). Therefore, no permanent provision can be introduced based on this.⁴⁴

6.5 Fiqh in the Ijtihad of the Tabi'is

Following the Companions, the Tabi'is also took the Shari'ah very seriously and applied it to their ijtihad and fatwas. When the Tabi'is did not get direct command from the Qur'an and Hadith on any subject, they resorted to Maslaha or human welfare, qiyas and other rational documents. It has been narrated from Ibrahim Nakhai that the provisions of Allah Ta'ala have some purpose. Those purpose and objectives are full of wisdom and human welfare.⁴⁵ It has been narrated from Qazi Shuraih (d. 78 AH) and Sayed Ibn al-Musayyib (d. 93 AH) (r.) that witnesses for father, son, husband and other relatives are acceptable to each other. In this connection, Imam al-Zuhri said in the time of the Companions, there was no allegation in the testimony of close relatives such as the testimony of the father on behalf of the son or the testimony of the son on behalf of the father. Later, in the age of the Tabi'is, the tendency of kinship, infidelity and betrayal among the people increased and some things came to light from them which compelled the then governors to accuse them. As a result, in the case of close relatives, their mutual testimony was rejected.⁴⁶

Another example of this is the phenomenon of pricing. In the time of the Prophet (s.), he did not fix the price of goods despite the request of the Companions. Because then inflation was due to natural causes of drought. In this regard, it has been narrated from Anas Ibn Malik (r.) that:

غلا السعر على عهد رسول الله صلى الله عليه وسلم فقالوا يا رسول الله سعلرنا فقال إن الله هو المعسر القابض الباسط الرزاق وإني لأرجو أن ألقى ربي وليس أحد منكم يطلبني بمظلمة في دم ولا مال-

"In the time of the Prophet (S.) when the prices of goods went up, the Companions said: O Messenger of Allah, set a price for us. In responding he replied, "Surely Allah is the Determiner, the Constrictor, the Extender and the Provider." I wish to meet Allah in such a way that none of you can complain to me about any kind of injustice regarding blood or wealth. "

But later in the time of the Tabi'is, when traders began to raise prices through hoarding, Sayed Ibn al-Musayyib, in consultation with others, prescribed a price for tackling hoarding and inflation, balancing human rights, ending oppression, establishing justice and eliminating suffering from society.⁴⁷

6.6 Fiqh in the Age of Ijtihad

This period extends from the end of the Umayyad rule to about the end of the fourth century (AH). This era is known as 'Ijtihad era'. At that time, the work of compilation of hadith and compilation of fiqh continued simultaneously. Moreover, Usul-ul-Fiqh book was prepared at this time. Great Mujtahid Imams and Jurists were born in this era. They introduced different Majhabs and compiled many books on each Majhab. Along with this, the general principles of fiqh and various terms were invented in this era and the acceptance of Ahlu Rai increased. In addition to Usul-ul-Fiqh and Presumptive Fiqh, various schools of thought emerged and expanded during this period.⁴⁸

6.7 Compilation Age of the Fiqh

This period extends from the end of the 4th century Hijri to the fall of Baghdad in 656 (AH). At this time, the work of compiling and writing fiqh was completed. For this reason, many people have called this era as the "Fiqh Compilation and Writing Era". At this time, ijtihad almost stopped. All, irrespective of 'Alim and common people, followed the eminent Imams and started writing books in the light of their Fiqh ideologies. Previously, the issues that the Mujtahid Imams had invented by researching the Qur'an and Hadith, in this phase, the truth assessment and analysis, review and support of all those issues began to be debated. Eventually most Muslims became dependent on following Imam Abu Hanifa, Imam Malik, Imam Shafi'i and Imam Ahmad Ibn Hanbal (rh.).⁴⁹

6.8 Age of Taqleed or Practice

This period extends from the fall of Baghdad in the seventh century (AH) to the present day. This era is called the 'Age of Taqlid'. In this era, the process of Ijtihad almost stopped due to the lack of people with recognized qualifications to do Ijtihad. In spite of this, many highly qualified scholars and Jurists were born during this period; Those who have played a glorious role in the development of fiqh in various ways. Moreover, many books on 'fatwa' have been written in this era.⁵⁰

7. Islamic Shari'ah in the pre-compilation age

The 2nd and 3rd centuries A.H is the golden age of Islamic knowledge and research. However, the theoretical form of Islamic Shari'ah has been formulated through the research of Sahaba, Tabe'i and Mujtahid Imams. People have accepted their views and fatwas and acted accordingly. If they did not understand the Shari'ah, it would not be lawful for them to issue ijtihad and fatwas, and later scholars would not support them in this matter.⁵¹

The Shari'ah practices of mujtahids are discussed below:

7.1 Imam Abu Hanifa (D.150 AH) in the study of Shari'ah

Imam Abu Hanifa (Rh.) was a pioneer of rational and speculative research methods. The principles of his ijtihad are al-Quran, Sunnah, Ijma, Qiyas and Istihsan. Istihsan has the predominance of the underlying argument over the external argument in order to achieve the inherent welfare of the Shari'ah-based provision. The underlying argument is that the benefit, beauty and human welfare of a provision. Imam Abu Hanifa (rh.) was so much adept at applying Istihsan that his student Muhammad Ibn Hasan al-Shaybani said that his disciples used to argue with him on various issues. Then when he said, "I am applying Istishan," no one else would argue about it.⁵²

For example, in the Ijtihad of Imam Abu Hanifa (rh.) the provision of punishment for theft can be mentioned. That is if a group of people conspire to steal into someone's house and guard it in preparation and implementation. They divide the work among themselves by digging up, entering the house, taking out the goods, etc. In this case the provision according to Qiyas is that only the person or those who were engaged in taking out the goods from the house will be punished for theft, not others. But Imam Abu Hanifa (rh.) used the principle of Istihsan in this case without giving the order according to Qiyas. And from the preparation of the theft plan to the implementation, all those involved were sentenced to this punishment. Because the punishment for theft is not

the main goal of Shari'ah but the main goal of Shari'ah is to stop the theft and to provide security for human property. Therefore, Imam Abu Hanifa (rh.) did not accept Qiyas but wanted to stop the way of theft by punishing all those involved by applying the principle of Istihsan. It is to be noted that the best thing to do here is to accept another principle without accepting Qiyas.⁵³

7.2 Imam Malik (d.179 AH) in the study of Shari'ah.

Imam Malik (rh.) is more advanced than other Imams in receiving Qiyas and public welfare (Masalih Mursalah). Masalih Mursalah is a welfare or benefit, the acquisition or rejection of which has no positive or negative evidence in Islam. The basic premise of his masalih mursalah is to achieve welfare and eliminate harm. Applying Masalih Mursalah in Maliki Madhhab means understanding the commentary of al-Quran and Sunnah and considering the welfare of the people in applying Qiyas. In order to confirm Masalih Mursalah, Imam Malik applied the principle of 'Sadduz-Zaray'i'. Basically 'Sadduz-Zarayi' is a practical form of Masalih Mursalah.⁵⁴

For example, Imam Malik's view on seeking permission to enter a house can be mentioned. If a person wants to enter someone's house or room, he has to ask permission three times. If allowed, will enter. Otherwise he will go back. According to this Hadith, there is no need to seek for permission more than three times. But Imam Malik said, "I have to seek for permission three times and I don't like asking for more permission." But for the person who realizes that the occupant of the house can no longer hear the voice, there is no problem in asking permission more than three times.⁵⁵

Another example of Imam Malik is doing meswak before Salat. Some scholars say that it is obligatory to do miswak before the prayer. So the one who intentionally omits it has to perform again. Imam Malik (rh) said, "I think it is mustahab or good because it makes the mouth smell." Imam Malik has given the order here with a view to purifying the underlying meaning of Hadith and the underlying purpose of Miswak.⁵⁶

7.3 Imam Shafi' (d.204 AH) in the study of Shari'ah.

Imam Shafi'i's one of the principles of Ijtihad is 'Masalih Ammah. He has given it precedence over ijma and qiyas. Besides, he also used Masalih Mursalih under Qiyas. Imam Shafi'i said, "Everything that Allah has sent down in the Qur'an is a mercy and proof for humanity." He who practices the knowledge of the Qur'an can understand it (mercy and proof) and he who does not practice the knowledge cannot understand it. For example, Imam Shafi'i's statement is important in protecting the intellect. Regarding the importance of protecting human intellect, Imam Shafi'i (rh.) said, "It is forbidden to destroy the intellect." Because destroying the intellect is equivalent to rejecting the obligations (Fraz) and by destroying the intellect man is immersed in the haram. Therefore, in order to protect the intellect, Islam has made it necessary to acquire knowledge and education, and has also prohibited drinking alcohol and playing dice or backgammon and chess.⁵⁷

Another example of the Shafi'i school is the issue of marriage by Imam Juwaini. He spoke about the purpose of marriage, peace of mind, mutual affection and love, eye cooling, beauty observation, increase in strength and ability, mutual cooperation, marital relationship, legitimate recreation, health protection, family building, reproduction,

protection of sexual power, loyalty to the Creator and Worship, increasing the number of loyal people, preserving the lineage, expressing gratitude to the Creator and receiving the reward of the Hereafter, etc.⁵⁸

7.4 Imam Ahmad Ibn Hanbal (d:241 AH) in the study of Shari'ah

Imam Ahmad Ibn Hamble (rh) has widely applied masalih mursalah in his ijtihad and has accepted it as a principle of his Fiqh. His adopted masalih mursalah is not irrational but it is also a method of documentary evidence based on the vein of al-Quran and Sunnah. Ibn Taymiyyah (d. 728 AH) mentions that he who denies the goodness, beauty and purpose of the Shari'ah for the life of man in this world and the hereafter is in the wrong path and has gone astray.⁵⁹ He further said, "To date, I have not received anything from the companions of the Prophet (s.) on which they disagreed, but there was no Qiyas." But the knowledge of right Qiyas and wrong Qiyas is the most dignified knowledge. Only he who knows the true and dignified knowledge of the Shari'ah, who knows the mysteries of the Shari'ah, its purpose, the boundless beauty of the Islamic Shari'ah, the welfare of man in this world and the hereafter, and the deep wisdom (Hikmah) of the Islamic Shari'ah.⁶⁰

For example, the provision of waqf for cash approved by Imam Ahmad is notable. Waqf is the accumulation of capital and the use of its profits for charity and public welfare. According to the jurists, waqf can be given if the wealth is not wasted or diminished by its use. On the other hand, the jurists have differed on the issue of waqf of dirhams, dinars, etc., which are wasted or reduced through use. According to Imam Ahmad, it is also lawful to waqf the national cash of dirhams and dinars. Ibn Taymiyyah, in support of Imam Ahmad's view, said that it is permissible to waqf in dinars and dirhams in cash for the purpose of giving loans. Because in the case of debt, even if the capital of cash is apparently depleted, but the repaid money comes back and replaces the capital, whether it is equal to the capital or more than the capital with monetary gain. So through this the capital remains and with it the profit of the waqf capital is also being earned.⁶¹

7.5 Theoretical formulation of Islamic Shari'ah

The theoretical formulation of the Islamic Shari'ah began in the late fourth century AH and was completed by the end of the eighth century AH. Abul Hasan al-Amiri (300-381AD) was the first to introduce the theoretical formulation of Shari'ah by mentioning the five basic necessities of human life. He wrote two books of Shari'ah. One is: "Al-Ilam bi Manakibil Islam". It deals with comparative theology and in its 6th chapter he discusses the wisdom and beauty of worship. Here he refers to the five goals by referring to the "Majazir Khamsa" (Five Punishment) i.e. the punishment for violating the five human needs. They are respectively: 1. Punishment for killing people. 2. Punishment for embezzlement. 3. Punishment for adultery and indecency. 4. Punishment for loss of honor. 5. Punishment for blasphemy.⁶²

Notable among those who contributed to the development of Islamic Shari'ah during this period were: Abu Bakr Abhuri (d. 385 AH), al-Baqillani (d. 403 AH), Qazi Abdul Jabbar al-Hamzani (d. 417 AH).) Al-Juwaini (d. 478 AH), Al-Ghazali (d. 505 AH) Ibn Rushd (d. 520 AH), Ibn al-Arabi (d. 543 AH), Muhammad al-Bukhari (d. 546 AH.), Fakhruddin ar-Razi (d.606 AH) Saifuddin al-Amidi (d.660 AH), Izzuddin Ibn Abdus Salam (d.660 AD), Al-Qarafi (d. 684 AH), Al-Baidavi (d. 685 AH), Nazmuddin al-Tufi (d.761 AH), Ibn Taymiyya (d.728 AH), Ibn Qayyim (d. 751 AH), Takiuddin as-Subaki (d. 771 AH), and Al-Isnawi (d. 772 AH) etc.⁶³

7.6 The final step in the development of Islamic Shari'ah

At the end of the eighth century AH, the Shari'ah concept was perfected through Imam Shatibi (d.790 AD) through "Al-Muwafaqat fi Usulish Shari'ah". In this book, Imam Shatibi has established the relationship of Shari'ah with each chapter of Usul Fiqh and in this book a separate chapter has discussed in detail the theory and application of Shari'ah. In this book, for the first time, he highlights the general aspects of Shari'ah. This is why he is called the teacher of Islamic Shari'ah. Ibn Khaldun (d. 606 AH), Shah Waliullah Dehlavi (d.1176 AH), and Ash-Shawqani (d.1250 AH) are notable among those who contributed to the Shari'ah theory along with Shatibi in this period.⁶⁴

7.7 Islamic Shari'ah in the subcontinent

612 AD Since the conquest of the Sind in 991 AD. until the conquest of India, there was no opportunity for Muslim rule and justice in India. Mohammad Ghori conquered India and established a permanent foundation of Islamic Shari'ah law in the country. When Muslim rule began in India, Muslim scholars from different countries started coming to this country. Those who were experienced in theology and Islamic law were appointed by the Muslim Sultans to various government posts, especially to judges. Following in the footsteps of the Abbasid Caliphs of Baghdad, the Umayyad Caliphs of Spain, and the Muslim Sultans of India established the Islamic rule and Shari'ah in the country.⁶⁵

Books written on Shari'ah based in modern times⁶⁶

Se	Books	Author	Publication Farm
1	Nazriyatul Maqasidi `IndalShatibi	D. Ahmad Al-Raysuni	Al-Mahadul `Alamilil Fikril Islami, London
2	Nazriyyatul Maqasid` Inda Imam Muhammad at-Tahir Ibn ashur	Isma`il al- Hasani	Al-Mahadul `Alamilil Fikril Islami. London.
3	Maqasidus Shari'ah `Inda Ibn Taimiyyah	Yusyf Ahmad Muhammad al-Badavi	Darun Nafa'is, Jordan.
4	Dirasatu fi fiqhi Maqasidus Shari'ah	D. yusuf al-Karjavi	Darus Shuruk, Cairo
5	Ahmiyyatul Maqasidfil Shari`atul Islamiyyahwa Asaruha fi Fahmin Nassiwa Istanbatil Hukm	Samih Abdul Wahhab al-Jundi	Muassasatur Risalah, Beirut.
6	Al-Ijtihadul Maqasidi: Hujjiyatuhu wa Dawabitihu wa Majalatuh	Nuruddin Ibn Mukhtar al-Khadimi	Wazaratul Awqaf wash Shuyun al-Islamiyya, Qatar
7	Qawaidul Maqasid`Inda Imam as-Shatibi	D. Abdur Rahman al-Kailani	Darul Fikr, Beirut
8	Maqasidus Shari'ah `Indalmamil Haramiyan wa Asaruha fit Tasarrufatil Maliyah	Hisham Ibn Sa'yid Azhar	Maktabatur Rushd, Riyad
9	Maqasidus Shari'ah `inda Ibnil Qaiym Al- Zawjiyyah	Samih `Abdul Wahhab al-Zundi	Nailain University, Sudan.
10	Maqasidus Shari'ah `Indas Shaiyakh al-Karjavi	D. Zashir Awdah	Mustaqal Imam al-Karajavi-2007, Qatar.

11	Maqasidus Shari`ah `Indal Imam al-ijj Ibni Abdis Salam	D. Umar Ibn Salih Ibn Umar	Darun Nafa`is, Jordan.
12	Al-Maqasidul Ammahlis Shari`ah til Islamiyyah	D. Yusuf Hamid al-`Alim	Ad-Darul `Alamiyyah lil Kitabillslami, Riyad.
13	Maqasidus Shari`ah til Islamiyyah wa Makarimuha	Allal al-Fasi	Darul Garbil Islami, Beirut
14	Maqasidus Shari`ah `Indal Imam Al-Gazali	Isma`il Muhammad al-Saedat	Muta University, Jordan.
15	Nahwa Taf`il Maqasidus Shari`ah	Jamal Uddin `Atia	Darul Fikr, Dimasq
16	Turuqul Kashfi un Maqasidis Shari`ah	Nu`mam Jugaim	Darun Nafa`is, Jordan.
17	Maqasidus Shari`ah bi Aba`din Zaidah	Abdul Mazid an-Nazzar	Darul Garbil Islami, Beirut
18	Imam al-Shatibi's Theory of the Higher Objectives and Intents of Islamic Law	Ahmad al- Raysuni Translated	IIIT, London
19	Ibn Ashur Treatise on Maqasid al-Shari`ah	Mohamed al-Tahir al-Mesawi	IIIT, London
20	Maqasid al-Shari`ah as Philosophy of Islamic Law: A System Approach	JaseerAuda	IIIT, London

8. Conclusion

Islamic Shari`ah is derived from the Qur'an and Sunnah, so it is very important issue in Islamic life. That is why the Companions and the Tab'e's have given importance to the Islamic Shari'ah in their Ijtihad and Fatwas. Similarly, other mujtahids, including the famous four Imams of Islamic jurisprudence, have applied Istihsan, Masalih Mursalah and Masalih Amma in Islamic Ijtihad on the content of Shari`ah. However, the main purpose of all these works were to protect the welfare of the people and the basic rights of the people. Besides, this was the main purpose of introducing the Shari'ah of all the Prophets. Overall analysis shows that it is not a newly invented theory outside the Qur'an and Sunnah or later scholars, but it has become a continuous philosophy of law from the time of revelation to the present day; Which is dedicated to human welfare. There is no substitute for Islamic Shari'ah in ensuring human welfare in the more modern age and beyond. Therefore, the understanding of Islamic Shari`ah at all levels of Islamic education is undeniable. As the matter is very important, the more it is discussed and reviewed, the more people will be able to benefit from it.

Notes & References

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² The real name of Allama Raghil al-Isfahani is Husain Ibn Muhammad Ibn Mugaffal. Little is known about his childhood. However, there is a difference of opinion regarding the date of death, but according to most, he died in 506 AH. Allama Raghil al-Isfahani was one of the top scholars of the fifth century AH. He had extraordinary skills in the branches of knowledge such as Tafsir, Hadith, Tarikh and Hekmat. His "Mufradatul Quran" is recognized as the greatest source of knowledge. A total of ten books by Allama Isfahani have been found. Some say he was died in 502 AH / 1106 AD..<https://mashikmadina.files.wordpress.com/2014/11/5-aoliakeram3edt.pdf>. date. 17/10.20.

- ³ Abul Qasem Husain Ibn Muhammad Maruf al-Ragib al-Isphahani, *Al-mufradatu fi Garibil Quran*, Vol-1 (Damesk: DarulQalam, 1412 AD.), P.450.
- ⁴ Surah al-Jasia. 18.
- ⁵ Yusuf Ahmad Muhammad al-Badawi, *Maqasidus Shari'ah Inda Ibn Taymiyyah* (Jordan: Darun Nafa'is, 2000), p. 522.
- ⁶ *Ibid*, p. 523.
- ⁷ Yusuf al-Qaradawi, *Dirasat fi Fiqhi maqasidus Shari'ah* (Al-Qahirah: Darus Shuruq, 2008), Pp-19-20.
- ⁸ Ahmad al-Raysuni, *Al-Fiqhul Maqasidi: Qawa'iduhu wa Fawa'iduhu* (al-Rabat: Matba'atun Najaatul Jadidah, 1999), p. 10.
- ⁹ Maulana Muhammad Abdur Rahim was born in 1918. He is a renowned scholar and Islamic thinker. He wrote many books on various aspects of Islam. He translated many books of Syed Abul Ala Maududi and Dr. Yusuf al-Qaradawi into Bengali. He died in 1987 AD: https://islamicboisoma.har.in/2017/04/blog-post_33.html
- ¹⁰ Mawlana Muhammad Abdur Rahim, *Islami Shari'ahter Utso* (Dhaka: Khairun Prokasoni, 2006), P. 9.
- ¹¹ Dr. Abdul Karim jaidan, *Al-Madkhalulla Derasatilsh Shari'ah til Islamia* (Alejandaria: Daru Umar Ibnil Khattab, 1969), P. 39.
- ¹² Muhammad al-Tahir Ibn 'Ashur, *Maqadisu Shari'ah til Islamiyyah*, Vol-1 (al-Urdun: Darun Nafa'is, 2001), P.171.
- ¹³ Allama Yusuf al-Qarazabi is an Egyptian Islamic scholar. He was born in 1926. He has written hundreds of books on various aspects of Islam. All of them have been widely appreciated by the readers. His show "Shari'ah and Life" on Al-Jazeera Television introduced him to the world. He is a consultant to the Muslim Brotherhood, an Egyptian-based international organization. He is considered the top leader of the Brotherhood. He was the president of the Ittehadul 'Alamil' Ulamil Muslimeen', an organization of Alims. <https://bn.wikipedia.org/wiki/date:14/8/20>
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- ¹⁵ Muhammad Rashid Reza, *Tafsirul Manar* (Beirut: Darul Ma'arifa, without date), P-414.
- ¹⁶ Imam Fakhoruddin al-Razi, *Tafsirul Kabir*, Vol-7 (Tehran: Darul Kutubil Ilmia, without date), P. 333.
- ¹⁷ Mahmud Shaltut, *al-Tafsirul Wadeh*, Vol-4 (Egypt: Matba'ul Istiqlal al-kubra, without date), p. 414.
- ¹⁸ Mawlana Muhammad Abdur Rahim, *Islami Shari'ahter Utso* (Dhaka: Khairun Prokasoni, 1994), P. 10-11.
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- ²² Muhammad Ibn Ahmad al-qurtubi, *Al-jami' Li Ahkamil Quran*, Vol-16 (Buirut :Darulhyait Turasil Arabi, W.D), P. 163 ;Dr. Ahmad Ali, *Tulonamulok Fiqh*, Vol-1 (Dhaka : Bangladesh Islamic Law Research and Legal Aid Centre, 2018), Pp. 38-40 ; D. Mohammad Wali Ullah, *Islami Shariatee Azimat & Rukhsat* (Dhaka: Islamic Foundation Bangladesh, 2013), Pp. 24-26.
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