



Islamic Law (*Fiqh*)



Harvard University Muslim Chaplain
Shaykh Dr. Khalil Abdur-Rashid
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What is Islamic Law (*Fiqh*)?

- Islamic Law (*Fiqh*): Knowledge (*ma'rifat*) of the Self (*nafs*) – its rights (*ma laha*) and its' responsibilities (*ma aleyha*).
- Landscape of Islamic Law (*fiqh*): All areas of human action (body, speech, heart.
- Benefit: Its study brings reward in this life and the next; it is considered an obligation.
- 3 Types of *Fiqh*:
 - Greatest *Fiqh* (Theology & Creed) – Realm of Faith (Iman)
 - External *Fiqh* (Devotional & Interpersonal Relations) – Realm of Action (Islam)
 - Internal *Fiqh* (Spiritual Cultivation) – Realm of Virtue (Ihsan)

Why Study Islamic Law (*Fiqh*)?

“It is not right for all the believers to go out (to battle) together: out of each community, a group should go out to gain understanding of the religion (*fiqh*), so that they can teach their people when they return and so that they can guard themselves against evil.” (Quran 9:122)

- “Whoever Allah wants good for, Allah grants them understanding of the religion (*fiqh*).” – Hadith
- “One person with understanding of the religion is harder on Shaytan than 1000 ignorant followers.” – Hadith
- “Seeking knowledge is an obligation upon every male and female.” – Hadith

The Landscape of Islamic Law (External *Fiqh*)

Devotional Relations (*Ibadat*)

- 1.) Purification
- 2.) Prayer
- 3.) Giving
- 4.) Fasting
- 5.) Pilgrimages
- 6.) Marriage

Interpersonal Relations (*Muamalat*)

- 1.) Islamic Ethics
- 2.) Divorce & Child Custody
- 3.) Inheritance
- 4.) Financial Contracts
- 5.) Islamic Finance
- 6.) Islamic Bioethics

Structure of Islamic Law (*Fiqh*)

Categories of Human Actions:

1. Obligation (*Fard*)
2. Recommendation (*Sunna*)
3. Permissible (*Mandub*)
4. Disliked (*Makruh*)
5. Prohibited (*Haram*)

***Context Matters!!!**

Categories of Practice:

1. Rigorous Practice (*Azima*)
 - a. Majority Practice
 - b. Safest Practice (Precautious)
2. Dispensation Practice (*Rukhsa*)

***Context Matters!!!**

Introduction: Devotional Relations (*Ibaadat*) in Islam & the Foundation of Morality

1. *Ibaadat* cultivates moral/ethical consciousness as a form of identity formation in Muslims.
2. *Ibaadat* has 6 Primary Domains:
 - a. Purity & Cleanliness (*Tahara*) – Seeing the divine manifestation in all things
 - b. Prayer (*Salat*) – submission of body and mind
 - c. Giving (*Zakat*) – Interconnectedness and common makeup as needful beings
 - d. Fasting (*Siyam*) – Restraint of our desires to consume
 - e. Pilgrimages (*Hajj & Umrah*) – Need to escape the world
 - f. Marriage (*Nikah*) – Family formation as central to journeying to God

Introduction: Theosophy, Purity & Cleanliness

- Narrated by Abu Huraira: “Indeed Allah is Pure and loves only that which is pure. And Allah Almighty has commanded the believers with what He has commanded the Messengers. He has said, ‘Oh Messengers, eat of the pure things and do right.’ and He said, ‘Oh believers, eat of the good things We have provided for you.’ Then the Prophet (pbuh) mentioned the case of a man who after a long journey is disheveled and dusty, who extends his arms towards the sky petitioning God; while his food, drink, clothes, and (entire ecosystem of) nourishment are all unlawful. How is he to be answered (in such a condition)?” – Sahih Muslim

Introduction: Theosophy, Purity & Cleanliness

- God is Pure and accepts only what is pure (this refers to the intention)
- Purity must be the standard of what constitutes the ecosystem of the Muslim
- Purity covers food, drink, clothes, property, thoughts, feelings, and actions.
- Everything runs on energy/fuel.
- “God designed the human being to run on Himself. He is the fuel our spirits were designed to burn!” – C.S. Lewis
- Purity is clean energy and purification is an act of refueling thru seeing Allah!
- Theosophy: the visible manifestation of God to the human being

1. Purification

Core Concepts for us today:

- Purity vs. Cleanliness (most relevant in matters of hygiene)
 - *Wudu, ghusl, istinja, tayammum*, brushing teeth, shaving/trimming nails/hair
- Process of Purification
 - washing, wiping, heating, tanning, *zibh* & *istihala*
- Purity vs. Filth
 - What is the basis of all things, pure or not?
 - wine, pigs, dogs, blood & pus, human waste, sexual fluid?
- Transformation of Filth to a Pure Substance (called *istihala*)
- Containers & Utensils (Gold & Silver containers & utensils are haram)
- Conservation & Waste

2. Prayer: the Morality Inducing Ritual

Core Topics:

- Invalidators (speech, broken purity, *awrah* uncovered, & excess movement)
- Spouses praying together; children leading?
- Prayer in vehicles
- Prayer during travel
- Non-Daily Prayers
 - Fear, Eclipse, Seeking Rain, Eids, Funeral, & Friday Prayers

Invalidators of the Prayer

1. Speech
2. Broken Purity
3. Uncovered *Awrah*
 - a. Males: From the navel to the knees
 - b. Females: Everything except the face and hands
4. Excess Movement

Spouses and Children Praying Together

1. Spouses Praying Together
2. Children/Minors/Teenagers Leading Prayer
3. Prayer Arrangement
 - a. Placement of men, women, and children

Prayer in Vehicles and while Traveling

1. Praying While Traveling
 - a. Shortening the Prayer
 - b. Combining the Prayer
2. Praying while in motion
 - a. On a Plane
 - b. In a vehicle on the road
 - c. On sea
 - d. In space

Non-Daily Prayers

1. Prayer in a State of Fear
2. Eclipse Prayers (lunar & solar)
3. Prayer for Rain
4. *Eid* Prayers (*Eid al-Fitr* & *Eid al-Adha*)
5. Funeral Prayer (*Janaza*)
6. Friday Prayer (*Jumua*)

3. Giving: Spending, Saving, & Consumption

1. Spending & Giving (the balance between saving and obligatory spending)
 - a. Giving Charity (*Sadaqa*)
 - b. Gifts (*Hediya*) & Endowments (*Waqf*)
2. Saving Responsibly
 - a. *Zakat* Payments (*Maal & Badan*)
 - b. *Zakat* recipients (8 categories)
 - c. Lost and Found Items
3. Consumption & Living Islamically in a Market Economy
 - a. Moderation vs. Waste (*israf*) vs. Stinginess vs. Squandering (*tebzir*)
 - b. What Money Shouldn't Buy?
 - c. Prohibited commodities

4. Fasting

1. Requirements for the Fast
 - a. Intention & Puberty
2. What Invalidates the Fast
 - a. Intentional eating, drinking, & sexual activity
3. Exemptions from Fasting
 - a. Anyone who is a minor, insane, sick, traveling, pregnant, breastfeeding, or elderly/too frail to endure the fast
4. Expiation for Breaking the Fast
 - a. Make up the day
 - b. Offer expiation (*kaffara*): Free a slave, Fast 60 days, or feed 60 people.

5. The Pilgrimages & Spiritual Retreat

1. Spiritual Retreat (*i'tikaaf*) – Abstract pilgrimage
2. Fasting & Its Importance
 - a. The intention
 - b. What breaks the fast
 - c. Those exempt from fasting
3. Important Aspects of Making Pilgrimage
 - a. Visiting the Prophet (pbuh)
 - b. Entering into a state of Pilgrim Sanctity (*Ihram*)
 - c. The Pilgrimage Sites
 - d. Exiting *Ihram* & Returning Home

6. Marriage & Family Life

1. Integrals for a valid Marriage
 - a. Offer & Acceptance; Witnesses; Guardian; *Mahr*
2. Wedding Gift (*Mahr*) from the Groom
 - a. Upfront
 - b. Delayed
3. Spousal Relations & Rights
 - a. Equal treatment
 - b. Conjugal & Romance
 - c. Limits & boundaries
4. Property Ownership
5. Renewal of Marriage
6. In-Laws Management

Introduction: Interpersonal / Environmental Relations (*Muamalat*) are arenas for applications of Morality

1. *Muamalat* are spaces to use Morality to preserve human interests
2. *Muamalat* has 6 Primary Domains:
 - a. Islamic Ethics – the theoretical foundations for applying morality
 - b. Divorce & Child Custody (*Talaq*) – morality in preserving lineage
 - c. Inheritance (*Miraath*) – morality in preserving family
 - d. Financial Contracts (*Uqud*) – morality in preserving honor/trusts
 - e. Islamic Finance – morality in preserving wealth / guarding exploitation
 - f. Islamic Bioethics – morality in preserving life & dignity

1. Islamic Ethics (Crime & Punishment)

- 1.) Intention-based Islamic Ethics
- 2.) Outcome-based Islamic Ethics
- 3.) Equity or Equality-based Islamic Ethics
- 4.) Non-Maleficence-based
- 5.) Precaution-based (Majority or Consensus) Islamic Ethics
- 6.) Precedent-based Islamic Ethics
- 7.) Psycho/Ego-based Islamic Ethics
- 8.) Islamic Principlism (10 Principles) Islamic Ethics

2. Divorce and Child Custody

1. Three Types of Divorce

- a. *Talaq*
- b. *Khula*
- c. *Faskh*

2. Right of Return

- a. Choice of husband; witnesses are recommended.

3. The Waiting Period

- a. 3 *Quru'* (periods b/t the menstrual cycle or three menstrual cycles?)
- b. Chance of renewed marriage during this period
- c. Maintenance is obligation upon the husband
- d. Alimony (*muta'*) payment is recommended but during the waiting period.

2. Child Custody & Welfare

1. Duties From Birth to Discernment (Constant themes regardless of time & place)
 - a. Name
 - b. *Aqiqah*
 - c. Play & Discipline
 - d. Introduce them to Allah (God) and the Oneness of Allah
2. Matters of Child Custody & Guardianship
 - a. Custody is for mothers; guardianship is for fathers
 - b. Child support is for fathers (Quran)
 - c. If a parent is unfit for custody, relatives are given the task (priority to women over men)
 - d. After young boys become teenagers, their fathers have the right to guardianship.

3. Inheritance

1. Causes Permitting Inheritance

- a. Direct Biological relations (parents, children, siblings)
- b. Marital relations (spouses)

2. Factors Blocking Inheritance

- a. Killing
- b. Bequeaths & Debt of up to a third of the property

3. Disputed Matters related to inheritance

- a. Inheritance of extended relatives:
 - i. Grandparents, grandchildren from daughters, daughters of brothers, cousins, maternal uncles. (Malikis & Shafis – They do not inherit)

4. Financial Contracts (7 Types)

- 1.) Contracts that Create Ownership & Responsibility
- 2.) Contracts that Eliminate Ownership & Responsibility
- 3.) Contracts that Transfer Ownership & Responsibility
- 4.) Contracts that Restrict or Reduce Ownership & Responsibility
- 5.) Contracts that Offer Guarantee & Trust
- 6.) Contracts that Create Financial Partnerships
- 7.) Contracts that Ensure Protection & Safeguard

5. Islamic Finance

1. Property Rights (Quran 4:29,30 ; 5:38-9; 17:35)
2. Riba (Quran 2:275 – 81; 3:130; 4:161)
3. Gambling (Quran 5:90-1)
4. Risk (*Gharar*) – Derived from Hadith
5. Derivative Restrictions (combination of something lawful and unlawful)
6. “Profit Accompanies Liability from Loss” Legal Maxim
7. Credit Sales
8. Islamic Bonds (*Sukuk*)
9. Partnership & Financing (*Mushaarika & Mudaaraba*)
10. Exploitation (Quran 43:32)

6. Islamic Bioethics

1. Matters Related to Life

- a. Organ Donation
- b. Abortion
- c. Assisted Reproductive Technologies
- d. Use of Unlawful Substances in Medical Care
 - 1. Porcine products & medical marijuana
 - 2. Risk Assessment of Harm

2. Matters Related to End of (this) Life Matters

- a. Removal from Life Support / Brain Death
- b. Assisted Suicide
- c. Medical Directive / Living Will

Areas for Further Research in Islamic Law (*Fiqh*)

Islamic Law & Ethics of:

1. Altering the Human Being (biomedical & neurotech; Biohacking; VR)
2. Changes in the Physical World (Robotics; Drones, Global Warming; Nuclear War; Drone technology; Advanced Materials)
3. Integrating the Environment (Geoengineering; space technology; energy capture, storage, & transmission)
4. Extension of Digital Technologies (Data Ethics, Privacy; Smart City Manag.)
5. Human Rights
6. Market Driven Economies (Intellectual property; Productivity; Markets & Morals)