

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ

## Introduction

(ابتدائیہ)

Islam is a perfect religion. Quran Says:

الْيَوْمَ أَكْمَلْتُ لَكُمْ دِينَكُمْ وَأَتَمَمْتُ عَلَيْكُمْ نِعْمَتِي وَرَضِيتُ لَكُمُ الْإِسْلَامَ دِينًا

{This day have I perfected your religion for you and completed my favor upon you, and have chosen Islam as your religion. (05:03)}

Islam means self-surrendering in front of God. It is bowing down of head in front of Him. Its premier objective is to believe on “Oneness of God”. And Islam means to accept that Allah سبحانه و تعالیٰ is ‘self-Existent’.

In Islam there is self-refinement. It builds character. It creates equalities. But in this equality, it does not make good & bad, educated & ignorant, hard worker & lazy person, as one. Rather, it gives the due rights to everyone. This religion believes in giving reward and punishment according to deeds. Islam educates love, realization of obligations, and moderation. This teaches us to discriminate between permissible and forbidden. Islam gives heredity rights in properties and wealth. Likewise, it protects the rights of women as well. It has also formulated economic and social rules. Moreover, it contains rules for civil and criminal courts.

Islam generates “Fear of God” that acts as a super-remedy against evils. For this, God indicates for a new life in ‘Hereafter’ and the ‘Day of Judgment’. But at the same time He also says that My mercy supersedes on My anger, and gives the news of Heaven:

وَرَحْمَتِي وَسِعَتْ كُلَّ شَيْءٍ

{And My mercy encompasses all the things (07:156)}

God has revealed all His orders and messages on His selected Servant and Messenger, Muhammad Mustafa صلى الله عليه وسلم, in the form of Quran. Wherein the following Verse has repeatedly been revealed:

وَأَطِيعُوا اللَّهَ وَأَطِيعُوا الرَّسُولَ

{And obey Allah and obey the Noble Messenger}

{(03:32&132), (05:92), (08:01, 20&46), (24:54&56), (47:33), (58:13), (64:12)}

Moreover, Quran also says that:

وَمَا آتَاكُمُ الرَّسُولُ فَخُذُوهُ وَمَا نَهَاكُم عَنْهُ فَانْتَهُوا

{And accept whatever the Noble Messenger gives you; and refrain from whatever he forbids you. (59:07)}

Muhammad Mustafa صلى الله عليه وسلم is His ‘Last Prophet’ and the ‘Principal Prophet’ too. By saying, he is a human being just like us, but his distinct specialty is that he gets revelations from God. God says:

لَّا تَجْعَلُوا دُعَاءَ الرَّسُولِ بَيْنَكُمْ كَدُعَاءِ بَعْضِكُمْ

{Do not presume among yourselves the calling of the Noble Messenger equal you’re calling one another (24:63)}

God also says at another place:

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَرْفَعُوا أَصْوَاتَكُمْ فَوْقَ صَوْتِ النَّبِيِّ

{O People who believe! Do not raise your voices higher than the voice of the Prophet. (49:02)}

The grandeur of the prophet is so high that he himself says that:

اللَّهُ يُعْطِي وَأَنَا قَاسِمٌ

(Allah bestows me and I distribute)

Every moment of our Prophet’s life is the light of guidance for us. Therefore all his Companions have heard each and every word said by the Prophet very carefully, not only in his speeches but also in his daily routines. Likewise, all these Companions have attentively observed his each and every action. Finally, they have preserved this precious treasure by bringing them into writing. And this treasure has been called as “Hadith”.

Every Verse of Quran is an order of God; therefore to take action accordingly is ‘Obligation’. The orders given by the Prophet is ‘Essential’. To follow the way of life of Prophet is ‘Sunnah’. And the combination of the rules from these three sections is called “Sharee’ah” (Islamic Laws). Preparing these Islamic laws and its research input is called “Fiqh”. Fiqh means, understanding. And those scholars who have an understanding of religion are called “Faqeeh”.

Faqeeh has the responsibility to explore the reasons and motives behind the orders and its practical strategic implications and also to evaluate what is right and what is wrong. Faqeeh compiles and formulates all the Obligatory and Essential rules. He also systematically arranges the rules for government as well as for public. He has the ability to make ‘ordinary to special’ and ‘special to ordinary’. He has the duty to prepare all the rules in view of the requirements of the human beings.

There are four main sources through which the Islamic Laws (Sharee`ah) are arranged.

- *Quran*
- *Hadith*
- *Ijma`a or Consensus*
- *Ijtihad or diligence and discretion*

Fiqh was originated right from the beginning of Islam. In the period of Khalifah Umer رضى الله عنه, making of Islamic laws in the light of Quran and Hadith were started. This was called “Fiqh of Madinah”. --- Later, Khalifah Ali رضى الله عنه and the Companion Abdullah bin Masood رضى الله عنه were considered as Faqeeh. Since they were mostly living in Koofa, Iraq, therefore this city became the centre of Fiqh, and Koofa developed as the Land of Fiqh. Imam Malik and Imam Auzaie etc. have also written books of Fiqh but all their efforts were individual.

The actual writing of Fiqh and its compilation started complete one century later. For this subject, Imam Abu Hanifah رحمه الله عليه (700-768AD) stressed for the combined efforts instead of individual work. Therefore, he was considered as the founder of Fiqh. Imam Abu Yousuf was the first who started to write on Fiqh. He wrote many books on Fiqh Hanafi. Today, whatever the material on Fiqh is available throughout the world is the collection of Imam Abu Hanifah but its final compilation has been taken up by Imam Muhammad and Imam Abu Yousuf. This collection is overall considered as “Fiqh Hanafi”. But in fact there are 4 persons who participated with their opinion and research in this work. They are: Imam Abu Hanifah, Imam Abu Yousuf, Imam Muhammad and Imam Zefar رحم الله عنهم أجمعين.

During the period of Khalifah Haroon Rasheed (764-809AD), “Fatawa Hanafi” was implemented throughout the country as their Official Laws. Mahmood Ghaznavi (968-1030AD) has written a popular book named “at-Tafreed” on Fiqh Hanafi. The well renowned Mughal Emperor Aurangzeb Aalamgir (1618-1707AD) had arranged an encyclopaedia with the name “Fatawa Aalamgiri” in his tenure, which

was an outstanding compilation on Fiqh Hanafi. For this work he had prepared a committee of some 500 Islamic scholars from India, Saudi Arabia and Iraq. This committee has compiled 30 volumes of “Fatawa Aalamgiri” comprising well elaborated Islamic Rules. These rules were not only implemented during Aurangzeb tenure but later when English came as a Ruler in India, they also kept these Fatawa continued. Now, In Pakistan Fiqh Hanafi is actively prevalent.

Nevertheless, all over the world, other than Fiqh Hanafi, Fiqh Maliki (Imam Malik 712-796AD), Fiqh Shafi’i (Imam Shafi’i 768-820AD) and Fiqh Hanbali (Imam Ahmad bin Hanbal 781-820AD) are being followed as well. The fiqh of Shia Muslims is “Fiqh Jafari”. It has been compiled by Imam Jafer Sadiq (700-765AD).

Fiqh, the Laws of Worships, arranged in the light of Quran and hadith are mainly based on the following five categories.

- **فرض (Obligation):** These are the orders from God. This is that matter which is proven by absolute logics. For this, reference from Quran and very well-known hadiths are required. Absolutely refuting to this is Blasphemy.
- **واجب (Essential):** This is that work which has been done by the Noble Prophet and simultaneously given an order to do. This is that matter which is proven but did not reach to the degree of certainty. For this the given logic is suspicious as it is based on opinion. Denial to this item is not Blasphemy. However, those who will act upon this they will be awarded and those who will not do this they will be punished.
- **سنت (Sunnah):** This is that work which has been done by the Noble Prophet but he has not given any order to do. Therefore, those who will act upon this they will be awarded but those who will not do this they will not be punished. Of course they are going to miss the favour of God. ---- In fact this is a voluntary worship offered by the Noble Prophet and not by the order of God. For us this is Sunnah. It has two groups:
  - 1) **مؤكدہ (Confirmed):** This worship has been done by the Noble Prophet regularly.
  - 2) **غير مؤكدا (Not confirmed):** This worship has been done by the Noble Prophet rarely.
- **مستحب (Desirable):** This is good deed. The man who will do it he would be rewarded. But, anybody who will not do it, he will not be punished.

- **نفل (Voluntary):** Other than Obligations, Essentials and Sunnah, these are the worships or good deeds which are done voluntarily. These will be rewarded, but if not done there will be no questions.

All worships have different members in which some are Obligations, some are Essentials, some are Sunnah, and some are Desirable. Here, we have to see whether we fulfil our worships according to these categories. While executing, we have to give special attention on Obligations and Essentials.

The eminent historian Ibn Khaldun (1332-1406AD) has explained Fiqh and said that in our dealings we have to take care of the following elements with respect to the Sharee`ah:

- ❖ **واجب (Essential):** These are the works which are correct as per Islamic Law and are permissible and 'حلال'. These should be done.
- ❖ **حرام (Forbidden):** These are the works which are wrong as per Islamic Law and are not permissible. These should not be done.
- ❖ **مستحب (Desirable):** These are the works for which the law recommends. These may be done.
- ❖ **مكروه (Disapproved):** Those works which can be done but with some reluctance.
- ❖ **مباح (Admissible):** These are the works which are neither forbidden nor recommended, and so religiously neutral.

In the daily routine of life, whether these are worships or dealings, while executing them it is vital for a Muslim to take care of **halal, haram, permissible, and non-permissible**. And for all actions, one should continuously examine whether these are according to the mentioned Islamic Laws and the mentioned categories.

It is seen that People have mixed up all these categories of Obligations, Essentials, Sunnah, and Desirable etc. Likewise we have also ignored the discriminations between halal & haram, and right & wrong. It is very much required to consider seeing how much we are following the Sharee`ah.

The purpose of writing this book "**Some Aspects of Islamic Jurisprudence**" is to convey which member of the worship falls in which category. Whether it is Obligatory, Essential, Sunnah or Desirable?

Similarly which action of the dealing is Halal, Haram, Permissible or Non-permissible. Until and unless the sufficient knowledge of these aspects is not available, the prevailing intermixing is very much anticipated.

This book has two sections:

- Part-1 is related to ‘Worship’. As discussed above, worships have different members like Obligations, Essential or Sunnah etc. Readers should give due considerations according to the importance of these categories.
- Part-2 is related to ‘Dealings’. In this, one has to take care of Halal, Haram, and Right and Wrong.

Remember that this subject is very wide. It has been mentioned above that from the beginning of Islam, scholars have worked a lot on this subject, particularly with reference to the feasibility and its implementation. Big volumes prepared on this subject indicate that for a common man, it is not easy to have complete knowledge of this subject.

In this book the aspects of Fiqh have been presented in a different format. This book summarizes only very essential aspects of Fiqh so that a common man may follow it conveniently.

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