

Principles of Jurisprudence:
An Introduction to Methodology of Fiqh

Mohammad Ali Shomali

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Introduction

A very important issue for any student of religion is to discover the way in which the teachings of that religion can be methodically learnt and justifiably deduced from its sources. Here two main questions arise: Firstly, what are the sources of the given religion to which all followers of that religion adhere and on which any investigation about that religion must be based? Secondly, what is the proper method of understanding those sources?

In Islam there are two different types of sources on which any inquiry about Islam must be based: revelation and reason. The way to learn revelation is to refer to the Qur'an and Sunnah. The way to understand rational judgments is to follow the rules of logic and set up decisive rational arguments.

For those aspects of religion regarding which reason has no access to the relevant truths, such as many details of the resurrection and practical rulings of the Shari'ah, one can simply be guided by revealed evidence. In proving the truth of a religion or a prophet, in which referral to revealed evidence involves begging the question and leads to circular

arguments one can simply apply independent rational arguments, such as when proving the existence of God and the truth of a certain religion or prophet. One cannot argue for the existence of God (swt) or truth of Islam by simply referring to certain verses of the Qur'an or quoting certain sayings of the Qur'an. There are also cases in which both sources and both methods may work, such as regarding many attributes of God (swt) or the just reckoning of God (swt) or the basic values of morality or the unlawfulness of acts of injustice from a jurisprudential point of view.

The science of *Usul al-Fiqh* is a discipline that studies the methods of understanding Islamic sources, or more precisely, the methods of understanding Islamic teachings from their sources. Although it was originally developed to help Muslim jurists define the appropriate ways of deriving Islamic (legal) rulings from valid sources, *Usul al-Fiqh* can certainly be of help, and indeed necessary, in other fields of Islamic studies as well. Any enquiry about Islam, whether related to creed, law or even morality, needs to be referred to the Qur'an, Sunnah or reason.

This is why I have some reservations about considering *Usul al-Fiqh* merely as "methodology of Islamic fiqh". Particularly after developments made by Shaykh Murtadā Ansāri and his successors, *Usul al-Fiqh* has become a very rich and sophisticated science that addresses many methodological questions in other Islamic sciences such as Qur'anic and hadith studies, akhlāq and aqā'id. Of course, those aspects of

Usul al-Fiqh which deal with sciences other than fiqh are still in need of improvement. It is hoped that the existing science of *Usul al-Fiqh* will be developed into a more inclusive umbrella science that can address general methodological questions in Islamic studies with certain sub branches dealing with the specific methodology of each science. There are also some philosophical, theological and ethical problems that are currently studied in *Usul al-Fiqh* but which could be left to their relevant disciplines, such as the question of freewill and intrinsic goodness and badness.

The *present* work is a humble attempt to introduce this profound science to English speaking readers. Of course, there have been previous attempts in this respect, such as two translations into English of *Al-Halqah al-Ūlā* by Ayatollah Sayyid Muhammad Baqir al-Sadr: one by Arii Musain as *Principles of Islamic Jurisprudence According to Shi'i Law*, and the other by Roy Muttahidah as *Lessons in Islamic Jurisprudence*. However, there is still a great gap in introducing this discipline to Western scholarship.

During my stay in London, I was asked to teach the book *Mabādi Usul al-Fiqh* (in Arabic) by Shaykh Dr Abd al-Hadi al-Fadli to English speaking students at the Imam Husayn Institute. In doing so I experienced the difficulties of rendering the technical expressions and profound ideas of *Usul al-Fiqh* into English. I also witnessed the difficulties that the students had in discovering this new world. After completion of that course I was asked by the Institute to write a

textbook on the subject in English. The original book, that is *Mabādi Usul al-Fiqh*, was to be taken as a model in the way in which its learned author had explained the problems using simple statements and in a logical sequence and order of subjects. However, I believed that it would not be adequate to simply translate the book into English. Therefore the middle way was chosen which was to use the Arabic text as a basis for the English text without being bound to follow it completely. Many alterations, omissions and additions were made. However, the general structure of the original text is preserved. Thus, although the author sincerely feels indebted to Dr. al-Fadli, however the author himself is fully responsible for the content as well as the language of the book. Readers are requested to share their comments about the book with the author and to put forward their suggestions for its improvement.

This book is divided into twelve lessons and is designed to serve as an introduction to the science of Usul al-Fiqh. Attempts are made to make the ideas as simple and clear as possible without presupposing any prior knowledge of the reader about the subject. It is hoped that it will also be of help to non-Muslims who are willing to learn more about Islam and particularly about the way in which Shi'a jurists derive practical rulings from their sources.

Here I should express my deepest gratitude to God the Almighty for completion of this work and I pray wholeheartedly that it will prove useful to seekers of knowledge. I should also thank all those who have

read the draft of this work and made valuable comments, especially Abbas and Masumah Jaffer.

Mohammad Ali Shomali

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