

# The Emergence Of The Science Of Jurisprudence

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**Annotation.** The science of jurisprudence is one of the necessary sciences in human life. That is why jurists attached great importance to this science. Of course, this knowledge comes from the age of happiness. At that time, the science of jurisprudence developed in a practical form. In three articles, we will talk about the emergence of jurisprudence.

**Key words:** Fiqh, jurist, madhhab, Hanafi, definition, istelah, fuqaha.

In the dictionary, the word fiqh means understanding, and science has a deeper meaning than knowledge. That is, jurisprudence means to understand something to its subtle parts and to understand it [1]. If the word science means to know something from the external side, the word fiqh means to understand all the secrets of something, down to its subtle parts. In the Holy Qur'an, Allah Ta'ala pointed out that science and jurisprudence differ in terms of meaning and blessed them as follows:

"However, the treasures of the heavens and the earth belong to God alone. But hypocrites do not understand this" (Munofiqun, 7). In this verse, Allah Almighty expressed the knowledge of the secrets of the treasure with the word fiqh. It is known that only those who know the secret know what is in the treasure and what is hidden in it. In the course of the sura, Allah Almighty says the following:

"Power belongs to Allah and His Messenger and the believers. But the hypocrites do not know this" (Munofiqun, 8). In this verse, he expressed the knowledge of power and greatness with the word knowledge. Because power is an outward sign. A person who sees a person with strength and power immediately notices that he is strong.

The meaning of jurisprudence in the Sharia term is: "To understand deeply the Sharia that Allah, the Exalted, revealed through His Prophet." [2]. Another definition of the meaning of fiqh in Sharia's reformation says: "Fiqh is the derivation of moral judgments from Shari'i evidence." The purpose of "Sharia evidence" in this definition is the Holy Qur'an and hadith. "Far'i Hukm" is a derivative of the original Hukm [3]. In the Sharia, religious rulings mainly consist of rulings on prayers and dealings.

Abu Hanifa was one of the jurists who first clarified the meaning of the term "Fiqh". Its definition is as follows: "The science of jurisprudence is the knowledge of the Shari'a rulings of cases related to the benefits and harms of each person who has a practical point of view" [4]. Ibn Khaldun, in the definition of fiqh in the book "Introduction", said: "Fiqh mukallaf is to know the rulings of Allah, such as wajib, mamnu', mustahab, makruh, and mubah, which are related to the actions of the servants. These judgments are taken from the Holy Qur'an, the Sunnah of the Prophet, and other evidences that are used as a basis for judgments by Shore'. Judging from these sources is called fiqh. Salaf scholars used to judge from these principles [5]. According to this definition, every jurist is a scholar. But not every scholar can be a jurist. The science of jurisprudence includes various areas of Sharia: it covers the foundations of faith, belief and its branches, muamalat and its branches, social life and its characteristics. Our great compatriot, famous jurist, Imam Fakhru'l-Islam Bazdavi said that fiqh has three aspects:

1) Studying Sharia rulings.

2) Mastering the acquired knowledge, that is, thoroughly understanding all the methods and rules of Sharia, understanding the reasons for each of them and for what purpose they were laid down (developed).

3) It is the implementation of this mastered knowledge [6]. According to the aforementioned definitions, the subject of jurisprudence is the study of the branches of law determined by ijihad from the main sources of Islamic jurisprudence. Its intended purpose is to achieve happiness in both worlds by following the rulings based on the main rules of Sharia.

Jurisprudence did not immediately take shape when the Islamic religion was created and the Muslim state - the caliphate - was established. Until the first half of the 8th century, the system of social norms of the caliphate, including legal norms, consisted entirely of Islamic requirements. The settlement of jurisprudence continued with the recording of the hadiths of Muhammad (pbuh) and the sayings of scholars. For this reason, the first works on fiqh (for example, Zayd ibn Hasan's "Majmua", Malik ibn Anas's "Muwatta", etc.), in fact,

were not researches on legal topics, but consisted of hadiths selected on a specific topic. The integration of hadiths into one system made it possible to determine the issues to be solved by rational interpretation of the Qur'an and Sunnah, and thus to form fiqh as an independent science [7]. By the 10th century, jurisprudence was fully formed as an independent science belonging to religious sciences. The science of fiqh is divided into two main parts: *usul-fiqh* and *furuul-fiqh*.

*Usul-fiqh*, as explained by Ibn Humam in the book "*at-Tahrir*", is to learn the rules that determine the ways of extracting rulings from the main sources. According to Tabari, the purpose of establishing the science known as *usul-fiqh* or *usul* is to classify and generalize the rules and situations that arise in the process of determining the rulings of the Sharia. A good understanding of the rules of this science helps to do *ijtihad*. Therefore, the science of method is a part of the science of jurisprudence [8]. According to Sheikh Muhammad Khuzaribek, the first to realize the necessity of *usul-fiqh* was the scholar Imam Muhammad ibn Idris al-Shafi'i, and in his work entitled "*ar-Risala*", which was included as an introduction to "*Kitabul-umm*", he described the importance of this science. explained the main terms.

The basic principles of *usul-fiqh* are derived from some shari'a sciences and some intellectual sciences. The purpose of the science of *usul-fiqh* is to have the ability to extract the *juzij* rulings of the Sharia from its 4 main sources, i.e. the Qur'an, Sunnah, *Ijma* and *Qiyas* [9]. In this regard, the famous representatives of Hanafi jurisprudence are the book "*al-Usul*" by Abulhasan Karhi (4th century), the book "*al-Usul*" by Jassos (4th century), the works of Dabusi (5th century), Fakhruislam Bazdavi (5th century) )'s "*Usulul-Bazdavi*" book, Sarakhsi's 2-volume "*Usulus-Sarakhsi*" book, Maturidi's (3rd century) books called "*Makhazush-shar*" and "*al-Jadal*" were written. Sadrush-sharia [10] "*Tanqih ul-Usul*" by Ubaidullah ibn Mas'ud and his commentary "*at-Tawzih*" are works that combine both directions.

There are two directions in *Usulud-Fiqh*:

1) *Jumhur* is a theoretical direction belonging to the ulema, and it determines only the basic rules without interfering with the religious rulings of the madhhabs. Since many *mutakallim* (scholars of the word) scientists work in this field, it is also called the direction of *mutakallim*.

2) is the direction of the Hanafis, in which the main rules are checked in relation to the *furoot* and *juziyat* of the madhhab. Specialists in this field try to prove the correctness of *ijtihad* on legal issues and the validity of the rulings developed by the scholars. In some places, the Hanafis, in opposition to the Shafi'is, introduced several additional methods into *usul-fiqh*. For example, *istehsan* and *urf* issues. Malikis also added *masolihu mursala*. But Shafi'i denies *istehsan* and *masolihi mursala*. In any case, the four main sources identified by Shafi'i were unanimously accepted by the four sects belonging to the *Ahl al-Sunnah wal community*. Apart from them, there are disagreements about the rules.

*Furuul-fiqh* is a complex of legal (practical) rulings extracted from the main sources through the rules and methods specified in *usul-ul-fiqh*, and constitutes branches or fields of the science of fiqh [1]. The aim of this subject is to be qualified to fulfill the rules of Sharia. This science is aimed at determining the interpretation of Sharia rulings from the Qur'an and Sunnah.

According to the dictionary meaning of *furuul-fiqh*, it means branches (kingdom) of fiqh. *Furuul-fiqh* was first mentioned by Abu Hanifa's students Muhammad Shaybani in *Kitabul asl-filfuru'* (this book is known as "*mabsut*") [12]. This book is structured differently from "*Kitabul Um*" (the main book) written by Imam Shafi'i on *usul-ul-fiqh*. *Juzi* rules of general rulings mentioned in this book are applied to the consideration of several issues. The basis of Islamic jurisprudence is the judicial system. It is customary to refer to this method as "*Ilm al-furu'*", that is, the precise solution and implementation of cases..

During the Abbasid caliphate, there was a greater need to solve social issues with the method of judgeship (*ilm al-furu'*). Because by this time, the borders of the Islamic state had expanded, reaching Spain in the west and China in the east. In order to manage these lands, first of all, to subject the citizens to the legal norms of the uniform order, naturally, some kind of management and administration method was required. In fact, the spread and roots of the four schools of jurisprudence recognized in Islam are related to the same period.

The subject of jurisprudence includes the study of 2 categories of norms:

1. Describe the relationship of Muslims with God (*Ibadat*). It includes solutions to issues related to ablution, prayer, recitation of the Qur'an, zakat, and Hajj.

2. Regulation of relations between people, between the state and citizens, and interstate relations (transaction). This part includes judgments about family, marriage, trade, distribution of inheritance, savings, etc.

The norms that express the relationship between Muslims and God occupy a large place in the books of the Hanbali and Maliki madhhabs. Representatives of this sect mainly pay attention to these aspects and consider them important. In the books of Abu Hanifa and Shafi'i schools, among the norms of worship, the issues of mutuality occupy a large place. Both sects weigh equally on this point. He does not put one side of the scale above the other without proof.

**Conclusion.** In general, the science of jurisprudence began to develop in a practical form in the age of prosperity. The Companions who were muftis of jurisprudence taught it to the subjects who were considered as their students. And they passed it on to the next generation. In this way, the science of jurisprudence continued to develop. At the time of the emergence of the four respected schools of thought, the development of the science of jurisprudence was extremely high. Its branches multiplied and began to branch. The representatives of each sect have incomparable merits in the emergence and development of the science of jurisprudence. They developed this science and developed rules. And they put it into practice. As a result, the science of jurisprudence was systematized by the efforts of religious imams.

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