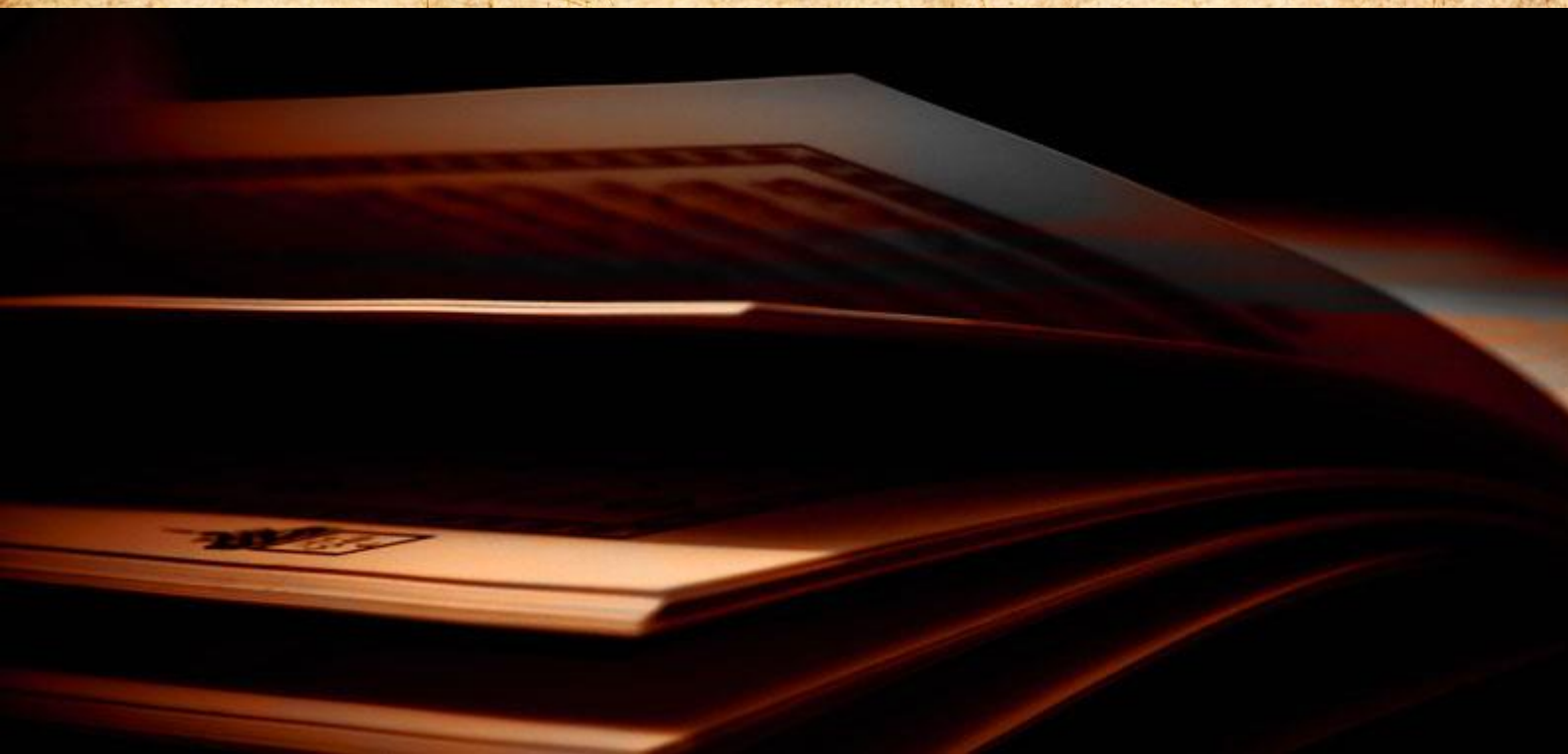




المدرسة
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AL·MADRASATU·AL·UMARIYYAH

Introduction to Uṣūl al-Fiqh



*Ustadh AbdulRahman
Hassan*

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Definition of *Uṣūl al-Fiqh*¹

Uṣūl al-Fiqh is a compounded word as it consists of two words. Due to this the scholars define it in two ways; firstly as two separate words, and secondly as one component.

As two separate words

Uṣūl

- The lexical definition of *Uṣūl* is: the plural² of *Aṣl*, and *al-Aṣl* is the base of anything. It then evolved to mean anything which matters are built upon.
- The technical definition of *Uṣūl* are many, however, we will mention the five most prominent:
 - i. The strongest of two opinions (*al-Rājiḥ*)
 - ii. The continuous principle (*al-Qā'idah al-Mustamirrah*)
 - iii. The default position³ (*al-Istiṣḥāb*)
 - iv. The evidence (*al-Dalīl*)
 - v. The original case, that which an analogy⁴ is drawn from (*al-Muqīs alayh*)

Fiqh

- The lexical definition of *Fiqh* is: To understand⁵ (*al-Fahm*)
- The technical definition of *Fiqh*⁶ is: Knowledge of the practical legislative rulings which are extracted through the detailed evidence.

As the science of *Uṣūl al-Fiqh*

The definition includes three matters: (1) Understanding the comprehensive evidence, (2) How to benefit from the evidence, and (3) The condition of the one benefitting.

The science deals with two matters:

1. What constitutes as an evidence? The evidence are divided into two: (1) That which is agreed upon; the Qur'ān, Sunnah, Consensus, and valid analogy, and (2) That which is differed upon e.g. the action of the people of Madīnah.
2. How can one benefit from this evidence?

The derivation of *Uṣūl al-Fiqh*

Uṣūl al-Fiqh is an amalgamation of the following eight:

1. The Book

¹ Studying this science is vital for one who is trying to justify the religion positions they hold. The scholars mention that two conditions need to be met when utilising the Qur'ān and the Sunnah as evidence for one's position; (1) A text which is authentic [Using *Muṣṭalah al-Ḥadīth*], and (2) An extraction which is accurate [Using *Uṣūl al-Fiqh*]. Once these two criteria are fulfilled an argument will usually be valid and sound. It is very common for an individual to use an evidence which has no relation to the point they are trying to justify. One cannot identify this flaw unless one has studied the science of *Uṣūl al-Fiqh*.

² There are three types of plurals in the Arabic language: (1) Masculine plural, (2) Feminine plural, and (3) Broken plural. This is a broken plural.

³ Sometimes it is observed in debates that the one who is upon the default position is trying to justify it. However, those who oppose them need to bring forth evidence.

⁴ There are four pillars of analogy (*Qiyās*): (1) Original case, (2) New case, (3) Reason, and (4) Ruling.

⁵ Some scholars mentioned that it means a detailed understanding; that which requires research.

⁶ For more details refer to "Introduction to *Fiqh*"

2. The *Sunnah*
3. The Consensus
4. The rational evidence⁷
5. The terminologies of *Ḥadīth*
6. The science of creed
7. The Arabic language
8. The science of *Fiqh*

Uṣūl al-Fiqh is divided into four:

1. Jurisprudent rulings
2. Textual evidence
3. The indication of wordings
4. The *Mujtahid*

The start and development of *Uṣūl al-Fiqh*

Before the time of the *Tābi‘īn*

The science of *Uṣūl al-Fiqh* is rooted back to the time of the Prophet (ﷺ)⁸; as he placed its foundation and applied it. The Prophet (ﷺ) would, at times, independently reason (*al-Ijtihād*). If the Prophet (ﷺ) was mistaken he would be corrected by Allāh (ﷻ). The Prophet (ﷺ) made analogies to teach his companions:

"أَنَّ امْرَأَةً أَتَتْ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَتْ إِنَّ أُمَّي مَاتَتْ وَعَلَيْهَا صَوْمٌ شَهْرٍ فَقَالَ أَرَأَيْتِ لَوْ كَانَ عَلَيْهَا دَيْنٌ أَكُنْتِ تَقْضِيئَهُ قَالَتْ نَعَمْ قَالَ فَدَيْنُ اللَّهِ أَحَقُّ بِالْقَضَاءِ"

"A woman came to the Messenger of Allah, peace and blessings be upon him, and she said, "My mother has died and she owed a month of fasting." The Prophet said, "Do you think if she had a debt you would repay it on her behalf?" She said yes. The Prophet said, "The debts of Allah are more worthy to be repaid."⁹

The Prophet (ﷺ) was asked regarding if one has to pay *Zakāh* upon a donkey:

"فَسُئِلَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَنِ الْحُمْرِ. قَالَ " مَا أَنْزَلَ اللَّهُ عَلَيَّ فِيهَا إِلَّا هَذِهِ الْآيَةَ الْفَائِدَةُ الْجَامِعَةُ {فَمَنْ يَعْمَلْ مِثْقَالَ ذَرَّةٍ خَيْرًا يَرَهُ * وَمَنْ يَعْمَلْ مِثْقَالَ ذَرَّةٍ شَرًّا يَرَهُ}"

"Then Allah's Messenger (ﷺ) was asked regarding donkeys. He replied, "Nothing has been revealed to me except this comprehensive Verse which includes everything: 'So whoever does good equal to the weight of an atom (or a smallest ant) shall see it; and whoever does evil equal to the weight of an atom (or a smallest ant) shall see it.'¹⁰

The Prophet (ﷺ) is using the generalisation of this verse and applying it in this situation.

After the death of the Prophet (ﷺ) the companions would refer to the Qur'an and the *Sunnah* in every issue. As there is no independent reasoning in the presence of a textual evidence. Following this, if there was no text present, they would sit together

⁷ The intellect is taken as long as it doesn't oppose the textual evidence.

⁸ If one wants to know whether a science is part of Islām then it has to stem back to the Prophet (ﷺ). If it does not then it will fall into unbeneficial knowledge.

⁹ Ṣaḥīḥ al-Bukhārī 1902, Ṣaḥīḥ Muslim 1132

¹⁰ Ṣaḥīḥ al-Bukhārī 7356

and consult one another. If they had a consensus it would be used as an evidence, however, if they differed it was based upon their independent reasoning. There was consensus between the companions that analogy is an evidence.

In this time, the principles of *Uṣūl al-Fiqh* were known naturally and practically not as a theoretically studied science.

At the time of the *Tābi‘īn*

In this time, the companions were passing away and the people began marrying non-Arabs causing the knowledge of the Arabic language to weaken. The Qur’ān, *Sunnah*, Consensus and analogy were present but the principles of *Uṣūl al-Fiqh* were still applied in a natural and practical manner, not put together into a theoretically studied science.

Imām al-Shāfi‘ī observed that two groups; the people of opinion and the people of *Ḥadīth*. In ‘Irāq, in his teens, he met *Imām Muḥammad ibn Ḥassan al-Shaybānī* – the illustrious student of *Imām Abū Ḥanīfah* – and discussed matters with him. *Imām al-Shāfi‘ī* noticed the hostility between the two groups, however, acknowledged that each group had good factors that the other may not have. *Imām al-Shāfi‘ī* hoped that Allāh would unite them through him; and this is what transpired. They all united to study under *Imām al-Shāfi‘ī*. Following this, his teacher ‘Abd al-Rahmān ibn Madhī asked him to document the science which he used to unite them. He authored his book ‘*Al-Risālah*’ – the first book in *Uṣūl al-Fiqh*.

After the time of *Imām al-Shāfi‘ī*

The methodology of *al-Shāfi‘ī*

After the death of *Imām al-Shāfi‘ī*, his book was served by *Ibn Surayj*, *Ibn Qaṭṭān*, *al-Sayrafī* and others, however, these did not reach us. This methodology was based upon *Uṣūl* and *Fiqh*. After these scholars passed away the next methodology started.

The methodology of the majority/people of rhetoric

It is known as the methodology of the majority because three of the four schools of thought come under this; *Shāfi‘īyyah*, *Mālikīyyah* and *Hanābilah*. It is also known as the methodology of the people of rhetoric because this method is based upon principles, however, not many evidences.

This methodology stems from four main books:

1. *al-‘Umad* by al-Qāḍī ‘Abd al-Jabbār
2. *al-Mu‘tamad* by al-Ḥusayn al-Baṣrī¹¹
3. *al-Burhān* by al-Juwaynī
4. *al-Mustaṣfā* by al-Ghazālī¹²¹³

Two scholars summarised the main contents of these books:

1. al-Rāzī in *al-Maḥṣūl*, provides more evidence.

¹¹ The first two were Mu‘tazalī

¹² The second two were Ash‘arī

¹³ Ibn Qudāmāh summarised this and removed the philosophical content in his book ‘*Rawḍah al-Nāzir wa Jannatu al-Munāzir*’.

2. al-Āmidī in al-Ihkām¹⁴, focusses more on the difference schools of thought and aims to observe what come out of the issues.

One man spent great time purifying what is written in all these books, this was Ibn al-Qayyim in his book; 'Ilām al-Muwaqī'in. This is a book that a student of knowledge cannot be without.

Key Books:

- Muntahā by Ibn al-Ḥāḥib
- al-Ihkām by al-Walīd al-Bājī
- al-Burhān by al-Juwaynī
- al-Luma' by al-Shīrāzī¹⁵
- al-Tabṣīrah by Shīrāzī
- al-Minhāj by al-Bayḍāwī

The methodology of the *Ḥanafīyyah/Fuqahā*

The methodology of the *Ḥanafīyyah* is easier to study as they place emphasis on examples. Many principles of the *Ḥanafīyyah* are extracted from the speech of *Imām Abū Ḥanīfah*, and not many are extracted from the Qur'ān and the *Sunnah*.

Key Books:

- al-Fuṣūl by Abī Bakr al-Jassās
- Risālah by Abī al-Ḥassan al-Karkhī¹⁶

The methodology of reconciling between the two

The scholars took the principles from both and attempted to find examples for them to find harmony between both methodologies.

Key Books:

- Jam' al-Jawāmi' by al-Subkī¹⁷
- al-Taḥrīr by Ibn Humām

The methodology of *al-Shāṭibī*

Imām al-Shāṭibī has two great books, one of these is titled 'al-Muwafaqāt'. In this book he spoke about the objectives of the *Sharī'ah*.

Key Books:

- al-Muwafaqāt by al-Shāṭibī

The benefits of studying *Uṣūl al-Fiqh*

There are ten benefits of studying *Uṣūl al-Fiqh*:

1. Precision in knowing what an evidence is, that which is agreed upon and their levels.

¹⁴ These two scholars were also Ash'arī.

¹⁵ This book was praised by Ibn Taymiyyah

¹⁶ The first to write after *Imām al-Shāfi'i*

¹⁷ This book has been poeticised: (1) *al-Kawkab al-Sāṭi'* by al-Ṣuyūṭī, and (2) *Marāqī al-Su'ūd* by 'Abdullāh ibn al-Ḥāj al-Shanqīṭī.

2. Clarity in knowing how to deduct and extract from the evidence correctly.
3. It makes it easier for an individual to be able to independently reason (*al-Ijtihād*).
4. Knowing the principles of giving verdicts.
5. Know the reasons why the scholars differed in certain issues, whether they are acceptable or not.
6. Call the people to follow the evidence where present.
7. Protects the correct Islamic Creed.
8. Protects the Islamic *Fiqh*.
9. Know the principles and methodology of dialogue and debate.
10. Know the simplicity and ease of this religion.

A gradual manner to study *Uṣūl al-Fiqh*

According to the way of the Ḥanafī's

To study with a teacher:

1. *al-Talkhis al-Uṣūl* by Ḥāfiẓ Thanā-Ullāh al-Zāhidī
2. *al-Manār* by Nasafī
3. *Kashf al-Asrār* by 'Alā al-Dīn al-Bukhārī

To read (after studying):

- *al-Uṣūl* by al-Bazdawī (Dār al-Bashā'ir)
- *Taqwīm al-Uṣūl al-Fiqh* by Dabūsī (Maktabah al-Rushd)
- *Uṣūl* by al-Sarkhasī (checked by al-Afghānī)
- *Fuṣūl* by al-Jassās (Awqāt al-Kuwaitī)
- *Badhl al-Nazar* by al-Ismandī (Dār al-Turāth)

According to the way of the majority

To study with a teacher:

1. *al-Waraqāt* by al-Juwaynī
2. *al-Uṣūl min 'Ilm al-Uṣūl* by Ibn 'Uthaymīn
3. *al-Luma' fi Uṣūl al-Fiqh* by al-Shīrāzī
4. *Minhāj* by al-Bayḍawī
5. *Jam' al-Jawāmi'*¹⁸ by al-Subkī

To read (after studying):

- *Sharh al-Waraqāt* by 'Abdullāh ibn Ṣāliḥ al-Fawzān (Dār al-Minhāj)
- *Sharh al-Waraqāt* by Jalāl al-Dīn al-Mahallī (with the footnotes of al-Ḍimyātī)
- *Taqrīb al-Huṣūl 'alā Laṭā'if al-Uṣūl min 'Ilm al-Uṣūl* by Ghāzī ibn Murshid al-'Utaybī (Dār al-Minhāj)
- *Sharh al-Uṣūl min 'Ilm al-Uṣūl* by Ibn 'Uthaymīn (Dār al-Minhāj)
- *Marāqī al-Su'ūd* by 'Abdullāh ibn al-Ḥāj al-Shanqīṭī (to memorise)
- *Sharh Jam' al-Jawāmi'* by Jalāl al-Dīn al-Mahallī

¹⁸ A summary of one hundred books written in *Uṣūl al-Fiqh*.