

Shari'ah: Following the Straight Path

Summary: Shari'ah refers to the system of law, ethics, and guidelines in Islam that govern a Muslim's practical life. Shari'ah began with the Prophet Muhammad, and was later codified and taught by the 'ulama. Along with schools, judges, courts, and rulers, the Shari'ah developed into a complex network. Today, the Shari'ah is applied in a variety of contexts - both at the state and individual level - which varies in different countries and amongst Sunni and Shi'a denominations.

The Prophet Muhammad was an interpreter of religious doctrine for the Muslim community, and leader of the Muslim state in Medina. In the centuries after the Prophet's death, Muslim rule extended from Spain to the borders of China, and some thought that these rulers had abandoned the ideals of Muhammad's community at Medina. During the life of the Prophet, people began to collect and write down *hadith*, the traditions of the Prophet's *sunnah* (literally "custom," refers to the words, actions, and lifestyle of the Prophet Muhammad). Many critics of Muslim rulers were authorities on the *Sunnah* and respected interpreters of the Qur'an. These learned persons, called *'ulama*, developed a system of *Shari'ah*—law, ethics and manners—so that Muslims could follow God's guidance in every aspect of life, from rituals to commerce to personal hygiene, in accordance with the example of the Prophet.

The *Shari'ah* is based on two primary sources: the Qur'an and *Sunnah*, and uses a variety of reasoning methods, termed as *ra'y*, to derive rulings from them like "reasoning by analogy", or "public benefit". It is important to note that *Shari'ah* refers to a comprehensive system of law, ethics, and guidelines for both personal and societal affairs, ranging from how to pray and perform Hajj, to guidelines for marriage, commerce, food and drink, to how to treat one's neighbors, family, orphans, and those in need. All of its precepts are based on the concept of avoiding harm and bringing benefit, and must be designed to preserve five overarching aspects of well-being: religion, life, intellect, family, and property for all human beings. Contrary to popular perception, criminal law constitutes only a very small percentage. The *Shari'ah* is also characterized by a number of schools of law, known as *madhabs*, and a variety of interpretations, all of which are seen as equally valid. These interpretations are collectively referred to as *fiqh*. Early on, the Sunni *'ulama* developed numerous schools of law, of which today only four remain: named after the great scholars who founded them, they are the Hanafi, Maliki, Shafi'i, and

Hanbali schools. The Shi'ah *'ulama* developed their own schools of interpretation as well, the most prominent of which is the Ja'fari school.

The *'ulama* arose as a creative and corrective force, addressing the social problems of their day. Over time, *madrassahs* ("places of learning") were established throughout the Muslim world in which *'ulama* engaged in the advanced study of law, philosophy and theology, arts and sciences. These became models for the European university system. One of the most famous is the 10th century al-Azhar University in Cairo, which continues to serve as an educational center for Muslims around the world. In addition, the *'ulama* worked as judges (*qadis*) and jurisconsults (*muftis*) in shari'ah courts, and advisors to rulers, throughout the Muslim world. Hence, the *Shari'ah* in a broad sense, consisted of an entire network of scholars, schools, courts, judges, jurisconsults, and rulers, all working in tandem to correctly apply and practice God's guidance in society.

Today, the *Shar'iah* forms an integral part of a Muslim's daily life - both at an individual and societal level - but its formulation and interpretation varies from different contexts. In some Muslim majority countries, predominantly Sunni, *Shari'ah* has been codified into a state constitution, while there exists both secular and shari'ah courts which oversee different aspects of the law. In these countries, shari'ah courts are primarily concerned with personal and family law, like marriage, divorce, and inheritance, while modern state-sponsored *fatwa* councils, known as *dar al-iftas*, derive shari'ah rulings to deal with new issues and changes in society related to religious affairs. The *'ulama* still operate to teach and develop *Shar'iah* in various capacities. They may take positions in madrasas like the Dar al-Ulum Seminaries in South Asia, or modern universities like Imam Muhammad b. Saud University in Saudi Arabia, or al-Azhar University in Egypt.

In contrast to Sunnis, Shi'a Muslims developed a tiered ranking of *'ulama* who engage in the teaching and derivation of *Shari'ah*. The highest ranking *'ulama* are known as *marjas* ("sources to follow"), and Shi'ah Muslims are required to follow a *marja* if they do not qualify as one. They may also be referred to with the title of "Grand Ayatollah." Shi'ah *'ulama* work in educational institutions known as *hawzahs* ("places of guarding religious knowledge"). Important *hawzahs* today include the Qom Seminary in Iran and the Najaf Seminary in Iraq. Iran, being a predominantly Shi'ah majority country, also presents a

unique approach of applying *Shari'ah*. The Supreme Leader of the country is himself an expert in *Shari'ah*, and along with the Guardian Council, oversee the rulings of the legislative and judicial branches so that they are in accordance with *Shari'ah*. Thus, the Shi'ah *'ulama* take a much more prominent and active role compared to their Sunni counterparts.

In the American context, while Muslims agree that *Shari'ah* neither contradicts nor must be a part of the state law (since *Shari'ah* cannot be applied to non-Muslims in the first place), American Muslims still apply *Shari'ah* in their personal lives - from ritual worship and dietary regulations, to marriage and ethical precepts. Modern *fatwa* councils, like the Fiqh Council of North America, and an active field of study, known as "Fiqh of Minorities" (*fiqh al-'aqliyyat*), guide American Muslims on how *Shari'ah* can be both applied in a Muslim's personal life, yet be compatible with a secular government.

Other American Muslims see the United States, due to its pluralism and diversity in practice and opinion, as a pretext for adopting a reformed version of *Shari'a*. These include for instance, the *Maqasid al-Shari'ah* approach which emphasizes the spirit of the law above the letter, or feminist approaches like those developed by Dr. Amina Wadud. Other organizations like KARAMAH, founded by Dr. Azizah al-Hibri, aim to promote a gender-equitable and human rights based *Shari'ah*, stating that this more accurately reflects the intents of the Qur'an and *Sunnah*.

While the contemporary age presents both challenges and opportunities, American Muslims are responding by defining common ground in both American and Islamic values.