

Understanding Divine Law in Islam

Ash Shaikh Mir Asedullah Quadri

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Abstract

Sharia, is a comprehensive and divine legal framework within Islam, governing not only personal conduct but also societal norms and state laws. This article aims to explain Sharia, elucidating its origins, principles, and unique structure. It traces the historical roots back to the Quran and the Sunnah of Prophet Muhammad (ﷺ), highlighting its evolution and the role of consensus and analogical reasoning in its development. The article also delves into the categorization of human actions under Sharia and discusses its personal, criminal, economic, societal, and ritual aspects. A key focus is given to the diversity within Islamic jurisprudence, illustrated through the four major schools - Hanafi, Maliki, Shafi'i, and Hanbali. Furthermore, the article presents a comparative analysis of Sharia with Jewish Halakha and Christian Canon Law, accentuating its distinctive approach as an all-encompassing guide for life. Addressing common misconceptions, the article sheds light on Sharia's adaptability, gender perspectives, and its application in modern times. The conclusion reaffirms Sharia's role as not just a legal code, but as a path towards spiritual, moral, and societal harmony, embodying the essence of Islam's comprehensive guidance for humanity.

Keywords – Sharia, Islamic Jurisprudence, Comparative Religious Law, Sunni Schools, Modern Misconceptions

Introduction

In an era where misconceptions and misunderstandings about Sharia are prevalent, it becomes imperative to delve into its origins, principles, and structures. This exploration is not just an academic endeavour but a bridge to foster a deeper understanding of Islamic jurisprudence and its unique position in the world of religious legal traditions. Rooted deeply in the divine revelation, Sharia, the Islamic legal framework, extends beyond the mere adjudication of legal norms to encompass a comprehensive guidance system governing personal conduct, societal norms, and state laws. It reflects the divine will, as conveyed through the Quran and exemplified in the life of Prophet Muhammad (ﷺ).

(ﷺ), offering a complete approach to life that intertwines legal, ethical, and spiritual dimensions.

As against the legal frameworks in Judaism and Christianity, such as Halakha and Canon Law, Sharia in Islam encapsulates a distinct amalgamation of divine commandments and human interpretation, making it a living, breathing legal tradition that resonates with the daily lives of believers.

Historical Origins of Sharia

The inception of Sharia, the divine law in Islam, is deeply rooted in the revelations of the Holy Quran and the exemplary life of Prophet Muhammad (ﷺ). It replaced the tribal customs that were steeped into Arabian Peninsula during 7th Century AD.

Sharia, which translates from Arabic as "path" or "way," is not merely a collection of legal codes but a dynamic pathway towards righteousness and divine justice as ordained by Allah. The Quran, as the primary source of Sharia, encompasses a broad spectrum of directives and guidelines, addressing diverse areas from personal conduct to societal governance. This comprehensive framework outlines Allah's command for a just and ethical human society.

The Sunnah, incorporating the actions, sayings (أحاديث), and tacit approvals of Prophet Muhammad (ﷺ), complements the Quranic text. It provides practical interpretations and demonstrations of the Quran's teachings, offering a detailed understanding of its principles. The life of Prophet Muhammad (ﷺ), as the final Apostle of Allah, stands as the ultimate embodiment of moral and legal guidance, shaping the contours of Islamic life.

In its formative years, under the guidance of Prophet Muhammad (ﷺ) and later under the stewardship of the Rightly Guided Caliphs (الخلفاء الراشدين), Sharia was practically applied and institutionalized within the Islamic community. This period was pivotal in the crystallization of Islamic jurisprudence, as divine guidance intertwined with human understanding to establish a comprehensive legal system, deeply embedded in the fabric of Muslim society.

Principles and Sources of Sharia

The bedrock of Sharia is established on two primary sources: the Quran and the Sunnah of Prophet Muhammad (ﷺ). These sources collectively form the divine guidance essential for every aspect of a Muslim's life, extending from personal conduct to societal ethics and state governance.

The Quran

The Quran, the word of Allah, is the paramount source of Sharia. It provides a comprehensive set of rules and guidelines, addressing a wide spectrum of human activities. The Quran's teachings cover matters ranging from worship (Ibadah) and morality to family relations, economic dealings, and societal obligations. It lays down the foundational principles of justice, equality, mercy, and compassion, which are central to Islamic law.

The Sunnah

The Sunnah, encompassing the actions, sayings (أحاديث), and tacit approvals of Prophet Muhammad (ﷺ), serves as a practical manifestation of the Quranic teachings. It not only clarifies and elaborates on the commands of the Quran but also provides a living example for Muslims to emulate. The Sunnah is critical in understanding the context and application of Quranic principles, thereby playing an integral role in the formulation of Islamic jurisprudence.

Secondary Sources

i. Ijma (Consensus): Ijma refers to the consensus of Islamic scholars on a particular legal issue. It is

based on the premise that the Muslim community, united in its understanding and interpretation of Islam, cannot collectively agree upon an error in matters of Sharia.

ii. Qiyas (Analogical Reasoning): Qiyas involves the application of principles established in the Quran and Sunnah to new situations and issues that arise. It is a method of legal reasoning that draws analogies, ensuring that the laws remain relevant and applicable in changing times and contexts.

Together, these sources form the backbone of Islamic jurisprudence, or Fiqh, which is the human endeavor to interpret and apply the divine laws of Sharia. Fiqh encompasses various schools of thought, reflecting the rich diversity within Islamic scholarship. These schools, while differing in their methodologies and certain legal rulings, all share the common objective of seeking to fulfill Allah's will as revealed in the Quran and exemplified by Prophet Muhammad (ﷺ). The interaction between these sources and the scholarly interpretations has endowed Sharia with dynamism and adaptability, enabling it to address the evolving needs of the Muslim Ummah throughout history.

Structure of Sharia Law

The structure of Sharia is distinguished by its comprehensive approach, which addresses the entirety of human life. It provides guidance on a broad range of aspects, from personal conduct to social responsibilities and state governance.

Categories of Human Actions

In Sharia, human actions are classified into five categories, each determining the legal and spiritual implications of the act:

i. Fard or Wajib (الفرض أو الواجب - Obligatory): These are actions mandated by Sharia that every Muslim is obliged to perform. Failure to comply can result in spiritual or legal consequences.

ii. Sunna (سنة): are the traditions and practices of prophet Muhammad (ﷺ) that constitute a model for Muslims to follow. The sunnah is what all the Muslims of prophet's time

evidently saw and followed and passed on to the next generations.

iii. Mustahabb (المستحب - Recommended): Actions that are recommended and favoured but not obligatory. Performing these actions earns rewards and is seen as virtuous.

iv. Mubah (المباح - Permissible): Actions that are neutral, neither encouraged nor discouraged, bearing no spiritual reward or punishment.

v. Makruh (المكروه - Disliked): These are actions that are discouraged but not explicitly forbidden. Avoidance of such acts is considered meritorious.

vi. Haram (الحرام - Forbidden): Actions that are strictly prohibited in Islam. Engaging in these actions incurs spiritual and sometimes legal penalties.

Personal Law

Sharia's personal law covers matters such as family relationships, marriage, divorce, inheritance, and personal ethics, providing detailed regulations to ensure these relationships align with Islamic principles.

Criminal Law

Sharia's criminal law deals with offenses against society. It includes prescribed punishments, known as Hudud (الحدود), for serious crimes, aiming to protect individual rights and societal harmony.

Economic and Financial Laws

Governing economic transactions, these laws address property rights, contractual obligations, and business ethics. They promote fairness and prohibit unethical practices like Riba (ربا - usury).

Societal Law and Governance

Extending to social governance, these laws encompass public administration and justice, emphasizing community welfare and the state's role in upholding Islamic values.

Worship (Ibadah)

Detailed guidelines for worship, including Salat (صلاة - prayers), Sawm (صوم - fasting), Zakat (زكاة - almsgiving), and Hajj (حج - pilgrimage), are integral to Sharia, reinforcing a Muslim's devotion to Allah.

This structure demonstrates Sharia's goal to guide not only external actions but also internal moral and spiritual development, adapting to varying contexts while rooted in its foundational sources. The interplay of these categories highlights the depth and flexibility of Islamic legal and ethical thought.

The 4 Major Sunni Schools of Sharia

The richness of Islamic jurisprudence is vividly illustrated in the existence of various schools of thought or Madhabs. Four major schools are recognized, each named after its founder and distinguished by its methodologies and interpretations. Despite their differences, these schools share the common goal of interpreting Sharia and are equally respected in the Islamic tradition.

Hanafi (الحنفي)

Founded by Imam Abu Hanifa (رحمه الله), the Hanafi school is known for its use of reason and opinion (ra'y) in legal rulings. It is the oldest of the four schools and is characterized by a pragmatic approach to the challenges faced by Muslims in different contexts. The Hanafi Madhab is prevalent in parts of the Middle East, South Asia, and among Muslim communities in Western countries.

Maliki (المالكي)

Established by Imam Malik ibn Anas (رحمه الله), the Maliki school emphasizes 'Amal, the practice of the people of Medina, as a source of legal decision-making. This Madhab is known for its adherence to the traditions of the Prophet's community and is widely followed in North and West Africa, and some parts of the Arabian Peninsula.

Shafi'i (الشافعي)

Founded by Imam Al-Shafi'i (رحمه الله), this school is recognized for its systematic methodology in jurisprudence and its emphasis on the Hadiths (sayings and actions of the Prophet - ﷺ) as primary sources after the Quran. The Shafi'i Madhab is predominant in East Africa, Southeast Asia, and parts of the Arabian Peninsula.

Hanbali (الحنبلي)

The Hanbali school, established by Imam Ahmad ibn Hanbal (رحمه الله), is known for its conservative approach and strict adherence to the Quran and Hadiths, with minimal reliance on human opinion. This Madhab is followed predominantly in parts of the Arabian Peninsula, including Saudi Arabia.

Each of these schools contributes to the diversity and depth of Islamic jurisprudence. Their existence highlights the flexibility within Islamic law to accommodate different cultural, geographical, and social contexts. While they differ in their methodologies and interpretations, these schools maintain unity in the fundamental principles of Islam, reflecting the dynamic nature of Sharia as adaptable yet rooted in the unchanging tenets of the faith.

Sharia in Comparison with Religious Legal Traditions in Judaism and Christianity

Sharia, in its essence and application, presents a unique approach to legal and ethical governance within the context of religious traditions. This distinctiveness becomes particularly evident when compared to the legal frameworks in Judaism and Christianity, such as the Halakha and Canon Law.

Comparison with Jewish Halakha

i. Halakha: The Halakha, which means 'the path' in Hebrew, is the collective body of Jewish laws, including biblical laws (those written in the Torah) and later Talmudic and rabbinic law, as well as customs and traditions.

ii. Sharia and Halakha: Both Sharia and Halakha are comprehensive, covering not only religious rituals and practices but also daily life matters.

However, Sharia encompasses a broader range of societal and state governance aspects, whereas Halakha tends to focus more on guiding the personal and communal life of Jews.

iii. Legal Sources: Both systems rely on sacred texts and oral traditions for legal rulings. However, in Sharia, the Quran and Sunnah have a more direct influence on legal verdicts, while Halakha is heavily based on rabbinical interpretations and discussions found in the Talmud.

Comparison with Christian Canon Law

i. Canon Law: Canon Law in Christianity refers to the body of laws and regulations made or adopted by ecclesiastical authority, for the government of the Christian organization and its members.

ii. Sharia and Canon Law: Unlike Sharia, which is a comprehensive legal system applicable to all aspects of life and society, Canon Law primarily governs the internal ecclesiastical matters of the Church, its doctrines, and the conduct of its members.

iii. Doctrine vs. Law: In Christianity, the teachings of Jesus Christ focus more on spiritual and ethical guidance rather than forming a codified legal system. In contrast, Sharia offers a detailed legal framework directly derived from the Quran and the teachings of Prophet Muhammad (صلى الله عليه وآله وسلم).

The examination of Sharia considering Halakha and Canon Law reveals its unique position as a complete legal system that governs not only religious and ethical aspects but also extends to the intricacies of daily life, societal norms, and state governance. This comparative analysis underscores Sharia's comprehensive nature, integrating legal, moral, and spiritual dimensions, reflecting the all-encompassing guidance of Islam for both the individual and the community.

Misconceptions and Modern Perspectives on Sharia

The understanding of Sharia has often been clouded by misconceptions and

misrepresentations, particularly in contemporary discourse. Addressing these misunderstandings is crucial to foster a more accurate and nuanced perspective on Islamic law.

Misconception of Rigidity

One common misconception is that Sharia is a rigid and unchanging set of laws. In reality, Sharia is dynamic and adaptable, capable of evolving with changing times and contexts. The principles of Ijma (consensus) and Qiyas (analogical reasoning) within Islamic jurisprudence allow for flexibility and responsiveness to new situations.

Misinterpretation of Punishments

Often, Sharia is exclusively associated with its penal code, particularly the Hudud punishments, which are seen as harsh and inflexible. But these punishments form a comprehensive deterrent to curb crime, ensure peace by safeguarding the individual rights of the members of society. In addition, implementation of such punishments has stringent evidentiary standards, reflecting Islam's emphasis on justice and the prevention of harm.

Perception of Gender Bias

Another misconception is the belief that Sharia is inherently biased against women. This is not true. The law in Islam recognizes the specific roles of males and females in human society which can be performed only when the state protects and facilitate individuals to perform these roles effectively. Discriminating against women is the product of cultural norms in certain countries which they historically follow for centuries. Often these practices are related to religion by misrepresenting the religious laws. These practices often contradict the egalitarian principles of Sharia as outlined in the Quran and the Sunnah, which emphasize for the dignity, respect, and rights of women.

Conflation with Cultural Practices

It is important to differentiate between cultural practices and the true principles of Sharia, which transcend cultural boundaries and are grounded in universal Islamic teachings.

Sharia and Non-Muslims

There is also a misconception that Sharia imposes Islamic beliefs and practices on non-Muslims. Historically, Sharia has allowed for religious and cultural pluralism, granting non-Muslim communities autonomy and protection.

Modern Application

In the modern context, the application of Sharia varies significantly across different Muslim-majority countries, reflecting a range of interpretations and implementations. Many contemporary Muslim scholars and jurists are engaged in the process of Ijtihad (independent reasoning) to address modern challenges and ensure that Sharia remains relevant and applicable in today's world.

Addressing these misconceptions is essential to appreciate the depth and breadth of Sharia. It is a comprehensive legal and ethical system that seeks to promote justice, fairness, and morality. Understanding Sharia in its true context allows for a more informed and respectful dialogue about its role in the lives of Muslims and its place in the global legal landscape.

Conclusion

The exploration in this research paper illuminates the profound depth and broad scope of Sharia, extending beyond jurisprudence, encompassing moral and ethical dimensions that guide every aspect of a Muslim's existence.

The distinct nature of Sharia, particularly in comparison to other religious legal traditions such as Jewish Halakha and Christian Canon Law, highlights its unique position as an all-encompassing guide. It not only governs religious rituals and personal ethics but also moulds societal norms and state laws. This approach demonstrates the comprehensive guidance of Islam, offering a balanced pathway that integrates legal, moral, and spiritual dimensions of life.

The rich diversity within Islamic jurisprudence, as seen in the four major schools of thought - Hanafi, Maliki, Shafi'i, and Hanbali - underscores the

adaptability and dynamic nature of Sharia. Despite their methodological differences, these schools share a unified commitment to implementing Allah's will, illustrating the flexibility within Islamic law to accommodate various cultural, geographical, and social contexts.

In contemporary times, dispelling misconceptions about Sharia is pivotal for fostering a genuine understanding of its principles and applications. Sharia remains a guiding light for Muslims worldwide, advocating justice, compassion, and ethical conduct. It is a living tradition that continuously evolves in meeting the needs of the present while staying true to its foundational values.

Sharia stands as a testament to the dynamic, merciful, and equitable ethos of Islam. It continues to guide personal behaviour, shape community life, and influence governance, embodying the timeless wisdom and ongoing relevance of Islamic jurisprudence.

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About the Author



Ash Shaikh Mir Asedullah Quadri is well known all over the world for his explanation of Islamic Tawheed, Sahih Iman, Sahih Islam and Sahih Ihsan. He is a scholar, historian, and poet. He is the author of Tafseer-e-Asedi, Irshad Al Asedi, Fusus Al-Iman and over 1000 books on various Islamic subjects. He has written many research articles on religion, history, and other subjects. He is also the Editor in Chief of CIFIA Global Journal.