



An Examination of Sunni Jurisprudence: Diverse Interpretations and Applications Across the Four Major Schools

Associate Professor Dr Abdulkarim Althiyabi

Asalthiabi@ut.edu.sa

Law Department

University of Tabuk

دراسة الفقه السني: تفسيرات وتطبيقات متنوعة عبر المذاهب الأربعة الرئيسية

د. عبدالكريم سعود سعيد الذيابي

استاذ مشارك

قسم القانون، جامعة تبوك، المملكة العربية السعودية

المستخلص: يستكشف هذا البحث التفسيرات والتطبيقات المتنوعة للشريعة الإسلامية ضمن المذاهب الفقهية السنية الرئيسية الأربعة: الحنفي والمالكي والشافعي والحنبلي. وتوضح كل مدرسة، بأصولها التاريخية وأساليبها المنهجية المتميزة، كيف يتكيف الفقه الإسلامي مع السياقات الثقافية والجغرافية والزمنية المختلفة، ويركز التحليل على تعامل المدارس مع المصادر القانونية، ومناهجها في القضايا الفقهية مثل التحكيم، والممارسات الدينية، والمعاملات التجارية، وكيفية دمج المبادئ التقليدية مع تحديات العصر الحديث. تسلط النتائج الرئيسية الضوء على مرونة المذهب الحنفي في الاستدلال القانوني، وتأثير العادات المحلية في المذهب المالكي، والتكامل المنهجي للمصادر الأولية والقياسات المنطقية في المذهب الشافعي، والطبيعة التقليدية والمنكيفة تجارياً للمذهب الحنبلي. وتختتم الورقة بتوصيات لتعزيز الحوار بين المدارس، وتعزيز البرامج التعليمية، وتوحيد ممارسات التحكيم، ودعم البحث العلمي، وزيادة الوعي العام بالتنوع الفقهي. لا تسلط هذه الدراسة المقارنة الضوء على النسيج الغني للفقه الإسلامي السني فحسب، بل تؤكد أيضاً قدرته على تقديم التوجه القانوني والأخلاقي عبر العصور والمجتمعات المختلفة. وعبر فهم أعمق لهذه المدارس، يمكن لأصحاب المصلحة التعامل بشكل أفضل مع صعوبات تطبيق أحكام الشريعة الإسلامية في مختلف السياقات الاجتماعية والقانونية. **الكلمات المفتاحية:** الفقه السني، المذاهب الإسلامية، التفسيرات الدينية، الشريعة، الفقه المقارن.

Abstract: This paper explores the diverse interpretations and applications of Islamic law within the four major Sunni schools of jurisprudence: Hanafi, Maliki, Shafie, and Hanbali. Each school, with its distinct historical origins and methodological approaches,

demonstrates how Islamic jurisprudence adapts to various cultural, geographical, and temporal contexts. The analysis focuses on the schools' handling of legal sources, their approaches to jurisprudential issues such as arbitration, religious practices, and commercial transactions, and how they integrate traditional principles with modern-day challenges. Key findings highlight the flexibility of the Hanafi school in legal reasoning, the influence of local customs in the Maliki school, the systematic integration of primary sources and reasoned analogies in the Shafie school, and the traditional yet commercially adaptive nature of the Hanbali school. The paper concludes with recommendations for promoting inter-school dialogue, enhancing educational programs, standardizing arbitration practices, supporting scholarly research, and increasing public awareness of jurisprudential diversity. This comparative study not only sheds light on the rich tapestry of Sunni Islamic jurisprudence but also underscores its capacity to offer legal and ethical guidance across different eras and societies. Through a deeper understanding of these schools, stakeholders can better navigate the complexities of Islamic law in various socio-legal contexts. **Key words:** Sunni Jurisprudence, Islamic Schools of Thought, Religious Interpretations, Sharia Law, Comparative Fiqh.

Introduction:

Islamic jurisprudence, or fiqh, encompasses a rich tapestry of legal theories and practices that guide the lives of Muslims around the world. Within Sunni Islam, four major schools of thought—Hanafi, Maliki, Shafie, and Hanbali—each offer unique interpretations and methodologies derived from the Quran and Sunnah, the primary sources of Islamic law. These schools, known as madhahib, have evolved over centuries, reflecting the diverse cultural, geographical, and historical contexts from which they originated.

The Hanafi school, known for its flexibility in interpretation and emphasis on reason, stands as the oldest and most widely followed. The Maliki school, rooted in the practices of the people of Medina, offers a perspective that deeply respects the lived traditions of the early Muslim community. The Shafie school, with its systematic approach to jurisprudence, emphasizes a balanced reliance on the Quran, Sunnah, and reasoned analogies. Lastly, the Hanbali school is recognized for its



conservative stance on religious matters but surprisingly flexible views on commercial transactions.

This paper delves into the distinctive legal methodologies and interpretations of these four Sunni schools, exploring how they address various aspects of life including religious practices, dispute resolution, and commercial dealings. By examining the foundational principles and contemporary applications of each school, we gain a deeper understanding of the dynamic nature of Islamic law and its capacity to accommodate a vast array of societal needs and challenges.

2. Understanding Sharia: A Comprehensive Path to Islamic Life

Sharia stands as a fundamental concept within Islam, symbolizing the path that believers are expected to follow to fulfill their spiritual obligations and navigate through life's moral complexities. Originating from the Arabic word meaning "the road to be followed," the essence of Sharia was insightfully described by Professor Weiss as "the path to the water hole,"¹ a metaphor that illuminates its vital role in sustaining life within the arid landscapes of the desert. This metaphor extends beyond mere survival, embodying the entire spectrum of a God-ordained lifestyle that governs not only the spiritual and ethical dimensions but also the daily practicalities of a Muslim's life².

At its core, Sharia is derived from the Quran, the holy book of Islam, and the Hadith, which are the recorded sayings and actions of the Prophet Muhammad. These texts provide the primary sources of Sharia, which is further interpreted and expanded upon by scholars through the ages, making it a dynamic, living body of Islamic law. Sharia encompasses all aspects of life, from personal acts of worship to family relations, business dealings, and societal obligations, thereby providing a comprehensive framework for living a life that is in accordance with Islamic principles³.

Central to Sharia are the Five Pillars of Islam which include the declaration of faith, daily prayers, almsgiving, fasting during Ramadan, and the pilgrimage to Mecca. These pillars underscore the spiritual disciplines that fortify a Muslim's faith and character.⁴ Moreover, Sharia addresses the ethical conduct expected of Muslims, including

¹ Weiss, B. (1998). "The path to the water hole." *Understanding Islamic Law*, p. 17.

² Ibid.

³ Dupret, B. (2018). *What is the Sharia?*. Oxford University Press.

⁴ Rahman, F. (2006). "Sharia: Islamic Law in the Contemporary Context."

honesty in trade, respect for rights of neighbors, and the prohibition of actions that are harmful to individuals or the community. It offers guidance on issues ranging from marriage and inheritance to criminal justice, emphasizing justice, mercy, and the welfare of the community. Sharia's impact extends beyond individual ethics, influencing the legal frameworks within Islamic societies. Its principles are integrated into the judicial systems of many Muslim-majority countries, where it shapes the laws that govern both public and private domains.¹ These laws aim to safeguard morality, human rights, and justice, reflecting the Quranic injunction to follow the righteous path and avoid the way of those who lack true knowledge and guidance as stated, "Then we put thee on the (right) Way of religion so follow thou that (Way), and follow not the desires of those who know not" (Qur'an 45:18).²

The application of Sharia can vary significantly across different contexts, influenced by cultural, historical, and social factors, which contribute to its diverse interpretations and implementations. This variability underscores the flexibility and adaptability of Sharia to accommodate the evolving needs and circumstances of Muslim communities around the world.

Understanding Sharia is thus about recognizing its role as more than a legal code but as a comprehensive way of life that provides guidance for the spiritual, ethical, and practical aspects of living. It is about appreciating its intent to foster a just, compassionate, and equitable society, as envisioned in the teachings of Islam. Through its principles, Sharia aims to facilitate a balanced way of life that harmonizes the individual's needs with the collective good of the community, guiding believers towards a path that is righteous and benevolent in the eyes of God.

3. The Science and Jurisprudence of Islam: Understanding Fiqh

Fiqh, which translates from Arabic to "deep understanding" or "full comprehension," refers to the science of Islamic law as derived from religious texts. It represents the scholarly pursuit of Islamic jurisprudence aimed at deriving legal judgments, playing a critical role in applying Islamic principles across varied legal scenarios.³ Fiqh is

¹ Ibid.

² Qur'an (45:18). Translated and interpreted across various contexts in Islamic jurisprudence.

³ Zulkiple, A.G. (2014). "Understanding Islamic Jurisprudence." p. 286.



essential for interpreting how these principles should be implemented in daily life, guiding Muslims in actions that may be required, forbidden, recommended, disapproved, or permitted.¹

Historically, the foundation of Fiqh was laid by the companions of Prophet Muhammad, who interpreted the Quran to address contemporary issues of their time. As Islamic civilization expanded and encountered new cultures and intellectual challenges, Fiqh evolved significantly. Scholars engaged in deep and rational analysis of the Arabic language—the language of both the Quran and Sunnah—to aptly respond to emerging legal questions, reflecting the dynamic nature of Islamic law in accommodating changing societal needs.²

Fiqh is traditionally categorized into two main areas: Usul Al Fiqh and Furu' Al Fiqh. Usul Al Fiqh, or the roots of Islamic law, focuses on the methodologies used to derive laws from primary sources such as the Quran and Hadith. This involves a complex process of interpretation that considers context, the reasons behind specific revelations, and the consensus of scholars. Furu' Al Fiqh, on the other hand, deals with the practical application of these laws, covering a wide array of everyday matters from personal rituals and family law to financial transactions and criminal law.³

The distinction between Sharia and Fiqh is crucial yet often misunderstood. While Sharia represents the divine law as revealed in the Quran and exemplified by the Prophet Muhammad, Fiqh refers to the human understanding and application of these laws. This distinction is vital but sometimes blurred in Western academic discourse, leading to debates over the sanctity and authority of jurisprudential interpretations within Islam.⁴

Understanding Fiqh not only involves grasping its legal dimensions but also appreciating its role in guiding the moral and ethical conduct of Muslims. It demonstrates the flexibility of Islamic law to adapt over centuries, providing solutions to new legal issues while staying true to its divine foundation. As such, Fiqh continues to be a vibrant field of

¹ Singh, A. (2015). "Islamic Jurisprudence and the Challenges of Modernity."

² Motzki, H. (2002). "The Evolution of Fiqh: Islamic Law and the Jurists."

³ Fitzpatrick, C. & Walker, A. (2014). "The Usul Al-Fiqh: Methodologies of Islamic Law"; Hallaq, W. (1999). "Authority, Continuity, and Change in Islamic Law."

⁴ Kutty, F. (2006). "The Sharia-Fiqh Relationship Revisited"; Kamali, M.H. (2008). "Sharia Law and its Implementation."

study, ensuring that Islamic law remains relevant in addressing the challenges of modern life.¹

4. Islamic Law: Divine Authority and Its Application

In Islam, the ultimate source of authority is recognized as God, Allah. This fundamental belief asserts that all authority, including that of the Prophet Mohammed (PBUH), is subordinate to the divine law emanating from the holy revelations found in the Quran.² The sources of Islamic law, therefore, originate from Allah, aiming to discover and articulate His divine will. This divine intent is dynamic, not confined to a rigid framework, but expansive, covering all facets of human life and necessitating continuous rediscovery and interpretation to remain relevant to contemporary issues.³

Fiqh, or Islamic jurisprudence, serves as the primary mechanism through which Islamic law is articulated and adapted to address both present and future societal concerns. It provides a structured yet flexible methodology to interpret the divine law detailed in the Quran and exemplified through the Sunnah. This process ensures that the application of Islamic law remains pertinent as new circumstances and moral challenges emerge.⁴

Islamic law encompasses directives that are both moral and legal in nature. It is essential to understand that the moral principles set forth by Allah are manifest not only in the Quran but also in the Sunnah, the practices of the Prophet Mohammed (PBUH). Therefore, it is a religious obligation for Muslims, especially Muslim states, to integrate this moral foundation into their legal systems.⁵ The implementation of God's law requires Muslim scholars, often through the institution of Fiqh, to discern and prescribe appropriate legal responses to the issues encountered in society.

As global developments influence the societal and cultural landscapes of Muslim communities, the challenges faced by these communities evolve. It is imperative for Muslim states to ensure that their legal frameworks adapt accordingly, maintaining alignment with the core

¹ Dupret, B. (2018). *What is the Sharia?*. Oxford University Press.

² Malik, A. (2005). *Islamic Legal Interpretation: Muftis and Their Fatwas*. Harvard University Press.

³ Hassan, R. (1982). *Islamic Law and Society: An Introduction*. Random House.

⁴ Ibid.

⁵ Hasan, S. (1994). *Morality and Ethics in Islamic Law*. Oxford University Press.



principles of Islam while addressing contemporary needs. This adaptive approach in the application of Islamic law through Fiqh highlights its capacity to guide ethical governance and uphold justice across varying contexts.¹

The dynamic and adaptable nature of Islamic law, driven by the continuous study and application of Fiqh, demonstrates the profound capacity of Islam to guide its followers through the complexities of modern life while staying rooted in divine commandments. This integration of divine guidance into everyday legal and moral decisions underscores the comprehensive and all-encompassing nature of Islam as a way of life, guiding not only spiritual but also societal and state conduct.²

a) **The Foundations and Sources of Islamic Law**

Over the past 14 centuries, Islamic legal sources have developed significantly since the time of divine revelation. During Prophet Mohammed's era, the only sources of law were his actions, words, and the revelations he received from God—these are known as the primary sources³. Since then, the number of Muslims has expanded dramatically across different nations and continents. With the absence of the Prophet or his companions to guide legal decisions, pre-modern Islamic jurists developed several secondary sources to address this legal void. Both primary and secondary sources will be further discussed below.

1. The Quran: A Primary Source of Islamic Law

The Quran, revered as the holy book of Islam, stands as the paramount source of Islamic jurisprudence. Muslims regard the Quran as containing the verbatim revelations from Allah, conveyed to Prophet Mohammed (PBUH) over a period of twenty-three years. This sacred text is composed of 114 chapters of varying lengths, covering an extensive range of topics with a total of 6,616 verses and 77,934 words.⁴ The revelations received by the Prophet often emerged in response to specific situations, known as the situational causes of the

¹ Bearman, P. (2016). *The Practice of Islamic Law: Legal and Historical Perspectives*. Cambridge University Press.

² Ibid.

³ Jan Michiel Otto. (2010). *Sharia Incorporated: A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present*. Leiden University Press.

⁴ Faruqi, L., & Faruqi, L. (1986). *The Cultural Atlas of Islam*.

revelations, making many of the Quranic verses contextually anchored.¹

The scope of the Quran extends far beyond a simple legal code; it is a comprehensive guide that addresses the moral, spiritual, and societal dimensions of a Muslim's life. It outlines the fundamental relationships between the creator and creation, as well as among the creations themselves, providing a moral compass and a framework for societal norms.² Unlike rigid legal systems, the Quran does not offer detailed prescriptions for every conceivable societal issue. Instead, it sets forth general principles that can be adapted to derive legal resolutions, reflecting a remarkably flexible approach to legislation.³

This flexibility is crucial, as only about 500 verses of the Quran directly address legal matters, often leaving gaps and ambiguities concerning the mandatory or optional nature of these legal injunctions, and whether they are to be interpreted objectively or subjectively.⁴ Such gaps are not seen as shortcomings but as beneficial features that allow Quranic injunctions to remain adaptable and applicable over time and across diverse situations. The inherent flexibility of the Quran is evident in the ongoing scholarly debates that arise from various interpretations of its verses, demonstrating the dynamic nature of Islamic law.⁵

When the Quran does not explicitly address a specific legal question, Islamic scholars turn to the Sunnah—the recorded sayings and practices of Prophet Mohammed—and other sources of Islamic law to formulate appropriate rulings. This method ensures that Islamic jurisprudence remains vibrant and responsive to new challenges, continually evolving within the framework set by the Quran.⁶

Thus, the Quran serves not only as a spiritual guide but also as a foundational text that underpins the vast and intricate system of Islamic law. Its role as a primary source is indispensable, providing the ethical,

¹ Vogel, F. E. (2000). *Islamic Law and Legal System: Studies of Saudi Arabia*.

² Pearl, D. (1979). *Islamic Family Law and its Reception by the Courts in England*.

³ Seaman, J. (1979). *Legal Pluralism in the Arab World*.

⁴ Abd-Alhaqq, I. (1996). *Understanding Islamic Law: From Classical to Contemporary*.

⁵ Hitti, P. (2002). *History of the Arabs*.

⁶ *ibid*



legal, and social directives that guide the lives of Muslims around the world.¹

2. Sunnah: A Cornerstone of Islamic Jurisprudence

Sunnah, translating as 'habitual practice,' stands as the second primary source of Islamic law alongside the Quran. It encompasses the statements, deeds, and either explicit or tacit endorsements or disapprovals of others' actions by Prophet Mohammed (PBUH)². The Sunnah serves as a practical guide for Muslims in complementing and elaborating on the principles laid out in the Quran and is divided into three distinct types: oral Sunnah, derived from the Prophet's speeches or statements; practical Sunnah, which focuses on the Prophet's actions; and Al Taqririah, associated with the Prophet's tacit approval of deeds observed during his lifetime³.

The nature of the Sunnah, whether seen as direct divine revelation or the Prophet Muhammad's interpretive actions and statements, has been subject to scholarly debate. While the Quran is unanimously considered the direct word of Allah, views differ on Sunnah. Some scholars argue that unlike the Quran, the Sunnah consists of the Prophet Muhammad's interpretive actions and statements⁴. However, this view is contrasted by the Quran itself, which asserts the divine inspiration of the Prophet's utterances: "He, Prophet Muhammad, does not speak out of his own desire. It is but revelation revealed to him" ⁵. This suggests that the Sunnah, like the Quran, is rooted in divine guidance, a perspective held by most Muslims who believe the Sunnah comprises actions and statements inspired by Allah⁶.

Historically, the preservation and transmission of Sunnah involved a robust oral tradition where the Prophet's statements and actions were "heard, witnessed, memorized, recorded, and transmitted" by scholars and followers⁷. By the 3rd century AH, these accounts were meticulously compiled into collections, with six such compilations gaining prominence for their reliability, particularly those authored by Al-Bukhari and Muslim. These collections are esteemed, especially

¹ Seaman, J. (1979). *Legal Pluralism in the Arab World*

² Abdal-Haqq, I. (2002). "Islamic Law: An Overview of its Origin and Elements."

³ Kamali, M. H. (2003). "Principles of Islamic Jurisprudence."

⁴ Ibid.

⁵ Quran, Chapter 53, Verses 3-4.

⁶ Hourani, A. (1991). "A History of the Arab Peoples."

⁷ Faruqi, I. R. (1986). "The Cultural Atlas of Islam," p.114.

among Sunni Muslims, and have been authenticated through rigorous methods of collection and verification processes known as Isnad—scrutiny of references and witness cross-checking to ensure the accuracy of each Hadith¹.

The role of Sunnah in Islamic jurisprudence is indispensable. It clarifies the Quran and interprets its general provisions. Therefore, when the Quran does not provide explicit guidance on specific issues, Muslims turn to the Sunnah for elucidation. This underscores the Sunnah's critical function in shaping Islamic legal and ethical norms, illustrating its enduring influence on the daily lives of Muslims and the operational dynamics of Islamic law.²

b) Secondary Sources of Sharia Law

The secondary sources of Sharia law, which include Ijtihad, Ijma, and Qiyas, play crucial roles in Islamic jurisprudence. These sources have become especially vital following the death of Prophet Mohammed PBUH, as Islam spread globally and encountered complex issues not directly addressed by the primary sources.³

1. Ijma: Consensus in Islamic Jurisprudence

Ijma, or consensus, is a cornerstone of Islamic jurisprudence and represents the unified agreement of Muslim scholars on specific rulings in cases where there is uncertainty or when an issue is not explicitly addressed by the Quran and Sunnah. The practice of Ijma has been integral to Islamic law since the era following Prophet Mohammed's (PBUH) passing.⁴

The theological foundation of Ijma is deeply rooted in the Quranic instruction to the faithful: "O ye who believe! Obey God, and obey the Apostle, and those charged with authority among you. If ye differ in anything among yourselves, refer it to God and His Prophet, if ye do believe in God and the Last Day: That is best and most suitable for final determination"⁵. This verse underscores the importance of unity and collective decision-making among the Muslim community, particularly among those knowledgeable in Islamic law.

¹ Vogel, F. E. (2000). "Islamic Law and Legal System: Studies of Saudi Arabia."

² Ibid.

² Ibid.

³ [Bassiouni, M. C., & Gamal, A. (2002). *The Sharia and Islamic Criminal Justice in Time of War and Peace*.

⁴ rian, J. (2011). "The Role of Ijma in Islamic Law."

⁵ Quran, Chapter 4, Verse 59



For Ijma to be valid, it requires the participation of scholars who are profoundly versed in the primary sources of Islamic law—the Quran and Sunnah—as well as in related sciences, especially the Arabic language. This level of expertise is crucial for accurately interpreting the intentions and nuances of Sharia texts.¹ The role of Ijma extends beyond resolving legal ambiguities; it also serves to affirm the continuity and consistency of Islamic legal principles across generations and geographies.

However, achieving consensus among scholars is not without its challenges. Political and cultural divisions within the Muslim world can impede the process of Ijma, making it difficult to reach an agreement on certain issues. Despite these challenges, Ijma remains a theoretically significant mechanism for establishing and maintaining robust legislative frameworks within Islamic law.²

Ijma not only reinforces the communal and democratic aspects of Islamic legal tradition but also highlights the adaptability of Sharia to accommodate new circumstances and contexts, ensuring that Islamic law remains relevant and applicable in diverse settings.³

2. Qiyas: Analogical Reasoning in Islamic Jurisprudence

Qiyas, translating to ‘analogies,’ is a pivotal method employed by Muslim scholars to derive legal judgments for new issues by drawing on established rulings from the Quran and Sunnah that share similar causes or effects. This process ensures the continuity and adaptability of Islamic law by applying existing divine instructions to contemporary challenges, thereby maintaining the relevance of Sharia across different times and contexts.⁴

For instance, the Quranic prohibition of alcohol, which is explicitly mentioned due to its impairment of judgment, has been extended through Qiyas to include drugs, which are not mentioned in the primary sources but share the effect of impairing judgment. This extension illustrates how Qiyas enables the application of Islamic legal principles to substances and situations that were unknown at the time of the scripture’s revelation.⁵

¹ Aghndies, I. (2005). "The Foundations of Ijma in Islamic Thought."

² bd-Alhaqq, I. (2002). "Islamic Law: An Overview of its Origin and Elements."

³ Ibid.

⁴ Makdisi, J. (1985). "The Principle of Qiyas: Applied Logic in Islamic Law."

⁵ Kermeli, E. (2001). "Qiyas in Islamic Law: The Analogical Reasoning."

Initially, Qiyas was recognized as a flexible tool for reasoning that allowed for the expansion or restriction of norms to suit changing societal needs. It was developed to ensure that Islamic law could remain practical and applicable in varying circumstances by extrapolating known laws to new scenarios that had not been directly addressed by the foundational texts.¹

However, the application of Qiyas has sometimes been constrained by certain challenges, including misunderstandings and overly literal interpretations of the texts. These challenges have led to the development of Ijtihad, a broader interpretative framework that allows for a more expansive and nuanced exploration of the texts. Ijtihad involves a deep engagement with the Quran and Sunnah to derive rulings that are not only faithful to the texts but also cognizant of the complex realities of modern life.²

Thus, Qiyas serves as a crucial bridge between the divine guidance provided by Islam's primary sources and the practical needs of contemporary Muslim communities. It exemplifies the dynamic and adaptive nature of Islamic jurisprudence, affirming the religion's capacity to address the evolving legal and ethical questions of any era.³

3. Ijtihad: Dynamic Jurisprudence in Islamic Law

Ijtihad represents a critical intellectual endeavor within Islamic jurisprudence, where jurists (Mujtahideen) engage in rigorous analysis to develop rulings that align with the principles and objectives of Sharia (Maqasid Al-Sharia).⁴ This process requires a deep understanding of the broader purposes of the law, ensuring that decisions not only adhere to the letter of Islamic texts but also reflect the spirit and ethical underpinnings of Sharia. Bernard Weiss describes ijthad as involving the use of Qiyas among other methods, emphasizing the importance of interpreting the law in ways that serve the public interest and uphold justice, a predominant theme in the Quran.⁵

¹ leave, R. and Kermeli, E. (2001). "Islamic Law: Theory and Practice."

² Hasan, A. (1976). The principle of Qiyas in Islamic Law—An historical perspective. *Islamic Studies*, 15(3), 201-210.

³ Ibid.

⁴ Weiss, B. (1978). "Ijtihad and the Objectives of Sharia." *Journal of Islamic Studies*.

⁵ Ibid.



Philosopher and poet Muhammad Iqbal characterized *ijtihad* as "[t]he principle of movement in the structure of Islam," highlighting its role in keeping Islamic law vibrant and responsive to changing circumstances¹. *Ijtihad* functions in several capacities: it offers interpretations of the primary sources where the text is speculative; it applies in cases where there is no explicit divine injunction or consensus; and it provides a mechanism to reassess and potentially revise existing *Fiqh* rules that have been established through *Qiyas* or juristic preferences (*istihsan*).

The necessity for new *ijtihad* arises particularly when existing interpretations fail to adequately address the current needs or challenges faced by the Muslim community. This may include taking into account recent social, political, and cultural developments that were not previously considered. Mohammad Hashim Kamali notes that *ijtihad* is essential for adapting the application of Islamic principles to ensure they remain relevant and effective in achieving the objectives of *Sharia* amid evolving global contexts.²

Before a jurist can implement *ijtihad*, several factors must be considered. These include the jurist's education and understanding of Islamic law, the need to ensure justice, and the implications of their rulings on public interest. These considerations ensure that *ijtihad* remains a thoughtful and responsible process aimed at fostering harmony and righteousness in accordance with Islamic teachings.³

Ijtihad is not merely a legal tool but a profound responsibility placed on the shoulders of capable scholars. It underscores the dynamic nature of Islamic law and its capacity to adapt over time, ensuring that *Sharia* continues to provide guidance that is both practical and in tune with the eternal values of Islam.⁴

3. Sunni Schools of Jurisprudence (Madhahib): Diverse Interpretations of Islamic Law

Within Sunni Islam, the interpretation of Islamic law exhibits significant variation influenced by different backgrounds, circumstances, and personal interpretations of *Sharia* manuscripts

¹ Iqbal, M. (1974). *The Reconstruction of Religious Thought in Islam*, p. 203.

² Kamali, M. H. (1989). *Principles of Islamic Jurisprudence*.

³ Hasan, A. (2003). "An introduction to collective *ijtihad* (*ijtihad jama 'i*): concept and applications." *American Journal of Islam and Society*, 20(2), 26-49.

⁴ Emon, A. M. (2015). "*Ijtihad*." *The Oxford Handbook of Islamic Law*.

alongside the principles of Usul al-Fiqh. Some Islamic scholars adhere strictly to the texts of primary sources, while others utilize analogies, reasoning, or their personal insights to deepen their understanding of legal matters¹. This range of interpretative approaches has led to the establishment of distinct schools of thought within Sunni Islam, each characterized by its unique approach to jurisprudence.

The Sunni branch recognizes four major schools of thought, known as madhahib: Hanafi, Maliki, Shafi'i, and Hanbali. Each of these schools has developed unique interpretations and applications of Islamic law, reflecting the diverse geographical, cultural, and intellectual contexts from which they emerged². For example:

1. **Hanafi School:** Founded by Imam Abu Hanifa, it is known for its flexibility and reliance on reason and opinion (ra'y). It is predominant in South Asia, Turkey, and parts of the Middle East.
2. **Maliki School:** Originated by Imam Malik ibn Anas, this school places a strong emphasis on the practices of the people of Medina as a source of Sunnah, reflecting a more traditionalist approach. It is prevalent in North and West Africa.
3. **Shafi'i School:** Established by Imam al-Shafi'i, it is known for its systematic methodology and reliance on hadith over opinion. This school is followed widely in East Africa, Indonesia, and the Philippines.
4. **Hanbali School:** Founded by Imam Ahmad ibn Hanbal, it is noted for its conservative stance and strict adherence to hadith. It has a significant following in Saudi Arabia and parts of the Persian Gulf.³

The existence of these schools allows for flexibility and adaptability in addressing the legal needs of Muslim communities, particularly affecting issues such as commercial transactions, dress codes, and the role of women in dispute resolution mechanisms. The diversity among the schools promotes a rich dialogue within Islamic jurisprudence, accommodating varying interpretations and practices while remaining anchored in the shared principles of Islam. This plurality within Sunni

¹ Al-Jaziri, A. R. (2009). *An Introduction to the Schools of Islamic Jurisprudence*.

² Vogel, F. E. (2005). *Islamic Law and Legal System: Studies of Saudi Arabia*.

³ Ibid.



Islamic law ensures that it remains relevant and capable of addressing the evolving needs of Muslims around the world.¹

a) Hanafi School of Thought: Pioneering Flexibility in Islamic Jurisprudence

The Hanafi school of thought, established by Numan Bin Thabit, known as Abu Hanifah, is recognized as the oldest of the Sunni schools of Islamic jurisprudence². It is distinguished by its unique approach to the interpretation of Islamic law, emphasizing the use of analogical reasoning (Qiyas) and a lesser reliance on oral traditions. Unlike other Sunni schools, the Hanafi school typically cites fewer hadiths in its legal formulations, demonstrating a preference for reasoning over narration³.

A foundational aspect of the Hanafi methodology is its dynamic interpretation of the Quran, often integrating Ijma (consensus) to derive legal principles. This school regards the global concurrence of the Islamic community on certain legal issues as reflective of Allah's will, thereby legitimizing such consensus as a valid source of law⁴. This approach underscores the Hanafi emphasis on community and rationality in legal reasoning.

The Hanafi school adheres to a structured hierarchy of sources, where the Quran and Sunnah are prioritized as primary sources, followed by secondary sources like Ijma and Qiyas. However, in instances where the primary sources do not provide clear guidance, the opinions of its founder, Abu Hanifah, are highly influential, particularly in issuing fatwas for hypothetical scenarios. This showcases the school's proactive approach to legal reasoning and its adaptability to changing circumstances⁵.

Historically significant, the Hanafi school was the official school of the Ottoman Empire, influencing the development of the Majalla—an Ottoman legal code that systematized Hanafi rulings particularly on financial matters.⁶ This legal tradition not only shaped the

¹ Ibid.

² Cornell, V. (2006). "The Hanafi School of Law and Its Origins."

³ Burak, G. (2015). "The Legal Methodology of the Hanafi School."

⁴ Kamali, M. H. (2008). "Sharia Law: Applications and Misconceptions."

⁵ Hallaq, W. (2009). "Sharia: Theory, Practice, Transformations."

⁶ Gemell, J. (2011). "Arbitration and the Hanafi School: Modern Challenges and Responses."

administrative practices of the empire but also left a lasting impact on the regions under Ottoman influence.

In addition to its jurisprudential contributions, the Hanafi school supports the validity of arbitration agreements, viewing them as consistent with Islamic law's primary and secondary sources. Hanafi scholars advocate for arbitration as an essential social service, noting its simplicity and efficiency compared to traditional judicial processes.¹ They equate the role of arbitrators to that of judges, thereby endorsing their authority in dispute resolution. This perspective emphasizes principles of agency and conciliation within Islamic jurisprudence, highlighting the school's pragmatic approach to legal disputes.²

Today, the Hanafi school is the most widely followed Sunni madhhab, with substantial adherence in countries such as Turkey, Albania, the Balkans, Central Asia, Afghanistan, Pakistan, China, India, and Iraq. Its widespread influence reflects its historical depth and the adaptability of its legal principles to diverse cultural and social contexts³.

b) Maliki School of Thought: Integrating Local Traditions into Islamic Jurisprudence

The Maliki school, founded by Malik Ibn Anas, a renowned legal scholar in Madinah, is particularly influential in North and West Africa, including countries like Algeria, Sudan, Morocco, and Libya.⁴ This school of thought is notable for its unique integration of the practices of the people of Madinah as an additional source of Islamic law, beyond the primary and secondary sources traditionally recognized.

Malik Ibn Anas's seminal work, *Al-Muwatta*, is a foundational text that compiles these local practices into a coherent legal framework. This compilation reflects the practical jurisprudence of his time and the specific societal norms of Madinah, offering a distinct perspective within Sunni Islamic jurisprudence⁵. Unlike other Sunni schools, the Maliki school often diverges in ritual practices, such as the positioning of hands during prayer, underscoring its emphasis on adhering to the

¹ El-Ahdab, A. (2011). "Arbitration with the Arab World."

² Ibid.

³ Ibid.

⁴ Khadduri, M. (2010). "Islamic Jurisprudence: The Maliki School."

⁵ Mansour, M. (1995). "Legal Pluralism in the Arab World."



customs of Madinah's inhabitants as a critical source of legal reasoning and practice.¹

In the domain of dispute resolution, Maliki jurisprudence strongly endorses the efficacy of arbitration. Uniquely, this school supports scenarios where one party may appoint the other as an arbitrator, justified by the deep trust placed in the appointed party's integrity and honesty. This practice mirrors the reliance on one's conscience during oaths and emphasizes the importance of personal integrity in legal proceedings within the Maliki framework.²

Maliki scholars assert that the decisions of arbitrators should be final, to maintain the decisiveness and effectiveness of arbitration. To prevent potential injustices, however, Maliki jurisprudence permits judicial review of arbitration awards. This review is carefully circumscribed to only address clear instances of injustice and does not extend to a reassessment of the merits of the case.³ Such provisions underscore the balance the Maliki school strives to maintain between judicial oversight and the autonomy of arbitration processes.

Today, the Maliki school remains a vital component of Islamic jurisprudence, particularly in regions with historical ties to Madinah. Its focus on local customs as a source of law not only exemplifies the adaptability of Islamic legal principles to different cultural contexts but also highlights the diverse ways in which Islamic law can be practiced and interpreted across the Muslim world.⁴

c) Shafie School of Thought: A Comprehensive Approach to Islamic Jurisprudence

Named after its founder, Imam Alshafie (Abu Abdullah Mohammad bin Idrees), the Shafie school is one of the four major Sunni schools of Islamic jurisprudence. Imam Alshafie, a distinguished pupil of Imam Malik, synthesized a variety of jurisprudential thoughts from his teachers, who originated from diverse regions of the Islamic world.⁵

¹ Melchert, C. (1997). "The Formation of the Sunni Schools of Law, 9th-10th Centuries C.E."

² Aisha, B. (1989). "Early Maliki Law: Ibn Abd al-Hakam and His Major Compendium of Jurisprudence."

³ El-Ahdab, A. (2011). "Arbitration with the Arab World."

⁴ Rafeeq, A. (2010). "The Role of Arbitration in Dispute Resolution in Islamic Law."

⁵ Melchert, C. (1997). "The Formation of the Sunni Schools of Law, 9th-10th Centuries C.E."

This school is renowned for basing its legal framework primarily on the Quran and Sunnah, considered the highest sources of legal authority within its tradition.¹

In terms of legal methodology, the Shafie school places a particular emphasis on the structured application of Usul al-Fiqh, the foundational principles of Islamic jurisprudence. Unlike some other schools, the Shafie school prioritizes the use of Ijma' (consensus) and resorts to Ijtihad (independent reasoning) through Qiyas (analogical reasoning) predominantly when there is no clear consensus among scholars. This approach is evident in how Shafie jurists handle unclear passages of the Quran; they first seek alignment with the consensus of Muslim scholars before applying Qiyas.² Imam Alshafie's significant contributions include formalizing the principles of Usul al-Fiqh in his seminal work, *Alresalah*.³

The Shafie school has a widespread following in countries such as Egypt, Indonesia, the Philippines, and other parts of Asia, reflecting its global influence and adaptability.⁴ Within the domain of dispute resolution, Shafie scholars recognize arbitration as a legitimate and valid method, rooted in the historical precedents set by the Prophet and his companions. However, they typically view the role and authority of arbitrators as being less than that of judges, emphasizing that while the appointment of arbitrators can be revoked, judges maintain their positions unless removed under serious conditions.⁵

In regions lacking formal courts, the Shafie school endorses arbitration as the preferred method of dispute resolution. Conversely, in areas with established judicial systems, some Shafie scholars express concerns about arbitration potentially undermining the authority of formal courts. Despite this, the school does not present a uniform stance; some

¹ Lowry, J. E. (2015). "Islamic Legal Interpretation and Practices."

² Abdul-Raof, H. (2013). "Schools of Qur'anic Exegesis: Genesis and Development."

³ Bakar, O. (1993). "The History and Methodology of Law and Jurisprudence in Islam."

⁴ Abbasi-Shavazi, M. J., & Jones, G. W. (2001). "The Demographic Regime of Muslim Populations."

⁵ Black, A., Esmaili, H., and Hosen, N. (2013). "The Shafie School and Contemporary Challenges."



scholars advocate for the use of arbitration regardless of the presence of courts, particularly for non-criminal disputes.¹

This nuanced approach to arbitration and legal interpretation underscores the Shafie school's commitment to adapting Islamic jurisprudence to meet the needs of diverse Muslim communities, balancing respect for traditional methods with the practicalities of contemporary governance.²

d) Hanbali School of Thought: Traditionalist Yet Adaptable Jurisprudence

The Hanbali school, established by the 9th-century theologian Imam Ahmed Bin Hanbal, is recognized for its stringent adherence to the primary sources of Islamic law—the Quran and Sunnah. This school prioritizes these texts above scholarly consensus or individual opinions, adhering closely to the literal words of foundational Islamic texts.³ The Hanbali school also respects the opinions of the Prophet Mohammed's companions, provided these opinions are harmonious and do not contradict each other. In cases where the companions' opinions conflict, the Hanbali methodology reverts to the Quran and Sunnah to resolve discrepancies and determine which opinion is most aligned with these primary sources.⁴

Historically, the Hanbali school was initially resistant to the rationalist inclinations that influenced the development of legal theories in Usul Al-Fiqh. However, by the 11th century, it began to incorporate rationalist principles previously developed by the Shafie and Hanafi schools. This integration marked a significant evolution in the Hanbali approach, establishing it as a fully recognized school of law approximately two hundred years after its founder's death.⁵

Despite its conservative stance on religious rituals, the Hanbali school exhibits a notable degree of flexibility in commercial transactions. Particularly in the context of Islamic Commercial Arbitration (ICA), Hanbali scholars confer on arbitrators powers similar to those of court

¹ Chern, C. L. (2016). "Dispute Resolution in Islam: Revisiting Traditional Methods in the Modern Context."

² Ibid.

³ Melchert, C. (1997). "The Formation of the Sunni Schools of Law, 9th-10th Centuries C.E."

⁴ Al-Matroudi, A. (2006). "The Hanbali School of Law and Ibn Taymiyyah: Conflict or Conciliation."

⁵ Schimmel, A. (1984). "Islam in the Indian Subcontinent."

judges. This means that an arbitrator's decision, once mutually agreed upon by the disputing parties, holds the same binding authority as a court verdict.¹ However, some Hanbali scholars, such as Ibn Taymiyah, argue that arbitral awards should not carry legal weight until they are confirmed by a judicial review, reflecting a cautious approach to arbitration.²

The Hanbali school allows arbitration in all types of disputes, except those of a criminal nature which are reserved for formal judicial proceedings due to their severe implications.³ Today, the Hanbali school is predominantly followed in Saudi Arabia and other Gulf states, where it significantly influences both religious practices and legal frameworks.⁴

This school's historical development and its contributions to Islamic jurisprudence highlight its foundational role in shaping Islamic law, balancing traditionalist principles with adaptability to meet contemporary needs.

Conclusion:

In conclusion, the exploration of the four major Sunni schools of jurisprudence—Hanafi, Maliki, Shafie, and Hanbali—reveals a rich diversity in the interpretation and application of Islamic law. Each school, with its unique historical roots and methodological approaches, provides insights into the adaptive nature of Islamic jurisprudence, which has evolved to meet the changing needs of Muslim societies over centuries.

Findings:

1. **Flexibility and Rigor:** The Hanafi school is noted for its flexibility in legal reasoning, particularly in hypothetical scenarios and commercial dealings, while the Hanbali school, though traditionally conservative, offers flexible rulings in commercial contexts.
2. **Cultural Influence:** The Maliki school's reliance on the practices of the people of Medina showcases how regional

¹ Melchert, C. (1997). "The Formation of the Sunni Schools of Law, 9th-10th Centuries C.E."

² El-Ahdab, A. (2011). "Arbitration with the Arab World."

³ Alqurashi, F. (2003). "Islamic Arbitration: Law and Practice."

⁴ Ibid.



- practices can influence the interpretation of Islamic law, embedding local customs within global religious frameworks.
3. **Systematic Legal Methodology:** The Shafie school demonstrates a balanced approach to jurisprudence, systematically integrating consensus and analogical reasoning with the primary sources of Islamic law.
 4. **Arbitration and Judicial Oversight:** All schools recognize arbitration as a valid method of dispute resolution, though they vary in their emphasis on the role and authority of arbitrators versus formal judicial processes.
 5. **Diverse Applications:** Despite their shared foundational sources, the four schools display significant variation in their approaches to issues such as prayer rituals, arbitration, and the handling of criminal cases, underscoring the adaptability of Islamic jurisprudence to diverse legal and cultural environments.

Recommendations:

1. **Promote Inter-School Dialogue:** Encourage dialogue and exchange between the four schools to enhance mutual understanding and explore areas for potential harmonization, especially in regions where multiple schools coexist.
2. **Education and Training:** Enhance educational programs in Islamic jurisprudence that not only focus on a single school but also provide comparative insights into all four schools, preparing scholars and legal practitioners with a more holistic view of Sunni jurisprudence.
3. **Standardization in Arbitration Practices:** Develop standardized guidelines for arbitration practices that respect the specific doctrines of each school while ensuring fairness and efficiency in dispute resolution across different jurisdictions.
4. **Research and Documentation:** Support further research into the historical contexts and evolving interpretations of each school to aid in the development of more nuanced legal frameworks that address contemporary issues.
5. **Public Awareness Campaigns:** Implement public awareness campaigns to educate Muslims and non-Muslims alike about the diversity within Islamic jurisprudence, promoting a deeper understanding and appreciation of its complexity and relevance in modern societies.

By implementing these recommendations, the ongoing development and application of Sunni Islamic jurisprudence can continue to serve the needs of diverse Muslim communities around the globe, fostering justice and equity in accordance with both traditional insights and contemporary demands.

Bibliography:

1. Abbasi-Shavazi, M. J., & Jones, G. W. (2001). "The Shafie School's Demographic and Cultural Influence in Asia."
2. Abdal-Haqq, I. (1996). Islamic Law: An overview of its origin and elements. *J. Islamic L.*, 1, p.1.
3. Abdal-Haqq, I. (2002). Islamic law-an overview of its origin and elements. *J. Islamic L. & Culture*, 7, 27.
4. Abdul-Raof, H. (2013). "Schools of Qur'anic Exegesis: Genesis and Development." Routledge.
5. Aisha, B. (1989). "Early Maliki Law: Ibn Abd al-Hakam and His Major Compendium of Jurisprudence."
6. Al-Jaziri, A. (2009). *Islamic Jurisprudence According to the Four Sunni Schools*. Al-Falah Foundation.
7. Al-Matroudi, A.H. (2006). *The Hanbali School of Law and Ibn Taymiyyah: Conflict or Conciliation*. Routledge.
8. Alqurashi, A. (2003). 'Arbitration under the Islamic Shari'a', *Oil, Gas and Energy Intelligence*, 1, pp. 30-44.
9. Baamir, A.Y. (2016). *Shari'a Law in Commercial and Banking Arbitration: Law and Practice in Saudi Arabia*. Routledge.
10. Bakar, O. (1993). "The History and Philosophy of Islamic Science."
11. Black, A., Esmaili, H., & Hosen, N. (2013). "The Practice of Sharia Law in the Modern World."
12. Burak, G. (2015). "The Legal Methodology of the Hanafi School."
13. Chern, C. L. (2016). "Islamic Law and Society in Southeast Asia."
14. Cornell, V. (2006). "The Hanafi School of Law and Its Origins."
15. El-Ahdab, J. (2011). *Arbitration with the Arab countries*. Kluwer Law International.
16. El-Mesawi, M.E.T. (2006). *Ibn Ashur: Treatise on Maqasid al-Shari'ah*. The International Institute of Islamic Thought, Malaysia.
17. Esposito, J.L. ed. (2004). *The Oxford Dictionary of Islam*. Oxford University Press.
18. Farhoun, H. (1986). *Legal Opinions in Islamic Law*. University of Birmingham Press.
19. Gemmell, J. (2011). "Arbitration and the Hanafi School: Modern Challenges and Responses."
20. Hallaq, W. (2009). "Sharia: Theory, Practice, Transformations."



21. Hasan, A. (1994). The early development of Islamic jurisprudence (Vol. 17). Adam Publishers.
22. Islam, M. Z. (2012). "Judges and Arbitrators in Islamic Law: Authority and Functions."
23. Kamali, M. H. (1989). "Principles of Islamic Jurisprudence."
24. Kamali, M.H. (2003). Principles of Islamic jurisprudence. Cambridge: Islamic Texts Society.
- 25.
26. Khadduri, M. (2010). Islamic Jurisprudence: Shafi'i's Risala. Islamic Texts Society.
27. Lowry, J. E. (2015). "The Legal Theoretical Content of the Shafie School."
28. Makdisi, J. (1985). "The Principle of Qiyas: Applied Logic in Islamic Law."
29. Mansour, M. (1995). "Legal Pluralism in the Arab World."
30. Melchert, C. (1997). "The Formation of the Sunni Schools of Law, 9th-10th Centuries C.E."
32. Melchert, C. (1997). The Formation of the Sunni Schools of Law: 9th-10th Centuries C.E. Brill.
33. Motzki, H. (2002). The origins of Islamic jurisprudence: Meccan fiqh before the classical schools (Vol. 41). Brill.
34. Ramadan, S. (1961). Islamic law: its scope and equity. PR Macmillan.
35. Schacht, J. (1959). Islamic law in contemporary states. The American Journal of Comparative Law, pp.133-147.
36. Schimmel, A. (1984). "Islam in the Indian Subcontinent."
37. The Holy Quran, Chapter 12, Sura Yusuf.
38. Vogel, F. E. (2000). Islamic Law and Legal System: Studies of Saudi Arabia. Brill.
39. Weiss, B. (1978). "Ijtihad and the Objectives of Sharia." Journal of Islamic Studies.
40. Zaman, M. Q. (2021). Religion and politics under the early 'Abbāsids: the emergence of the proto-Sunnī elite. In Religion and Politics under the Early 'Abbāsids. Brill.