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Qabeelat Ruhma

Assalāmu‘alaikum wa raḥmatullāhi wa barakātuhu,

Verily all the Praises are due to Allāh (s.w.t.), we praise Him, we seek His help and we ask for His forgiveness. And we seek refuge in Him from the evil within our souls and from the evils of actions. Whomsoever Allāh (s.w.t.) guides, no one can misguide him and whomsoever He misguides, no one can guide him. We bear witness that there is no God but Allāh (s.w.t.) and that Muḥammad (s.a.w.) is His final Prophet and Messenger. We thank Allāh (s.w.t.) who helped us all along the way in producing this notes and it would be no exaggeration to say that without His Help we would have indeed failed. We also thank Him who preferred us upon many of His believing slaves in preparing this notes, alḥamdulillāh.

This document contains the notes from the Code Evolved single weekend seminar which was taught by our Shaykh Yaser Birjas, hosted by Qabeelat Ruhma on November 13-15, 2015. AlMaghrib Institute or its instructors are not responsible for the material inside this notes. There is no copyright associated with this work, it is highly encouraged to spread around this knowledge to everyone; however, it should be done without editing. Allāh (s.w.t.) says in the Qur’ān, “... and man was created weak...” (An-Nisā’ 4:28) So indeed, in this class notes you will find mistakes but since we are weak creatures, we do mistakes, so please accept our apology in advance. If you find any mistakes, please email us back at academics@gruhma.com. Feel free to share it with others as well.

Kindly remember us in your du‘a and may Allāh (s.w.t.) accept this effort. We hope that Allāh (s.w.t.) accepts from us this work and benefits the Muslims and non- Muslims alike as a source of guidance and away from misguidance, so that it can be a source of ḥasanāt for us even after death; as Rasulullāh (s.a.w.) said, “When a man dies, his good deeds come to an end except three: ongoing charity, beneficial knowledge and righteous offspring who will pray for him.” (Muslim)

Wassalāmu‘alaikum wa raḥmatullāhi wa barakātuh.

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Introduction

Knowledge is Sacred

ومن الناس والدواب والانعام مختلف الوانه كذلك انما يخشى الله من عباده العلماء ان الله عزيز غفور

“And of men and AdDawâb (moving living creatures, beasts, etc.), and cattle, in like manner of various colours. It is only those who have knowledge among His slaves that fear Allâh. Verily, Allâh is AllMighty, OftForgiving” (alQur’an 35:28)

1. The Importance of Knowledge:

- The default state of a human being is one of ignorance, not knowledge.

والله اخرجكم من بطون امهاتكم لا تعلمون شيئا وجعل لكم السمع والابصار والافئدة لعلكم تشكرون

“And Allâh has brought you out from the wombs of your mothers while you know nothing. And He gave you hearing, sight, and hearts that you might give thanks (to Allâh)” (alQur’an 16:78)

- It is a favor from Allah swt that He provides us with knowledge.

علم الانسان ما لم يعلم

“Has taught man that which he knew not” (alQur’an 96:5)

- Acquiring knowledge is an obligation.

Anas ibn Malik reported that the Prophet (Peace Be Upon Him) said: “The seeking of knowledge is obligatory for every Muslim” (Ibn Majah)

- Through knowledge superiority of Adam over the angels was proven.

وعلم ادم الاسماء كلها ثم عرضهم على الملائكة فقال انبئوني باسماء هؤلاء ان كنتم صادقين

“And He taught Adam all the names (of everything), then He showed them to the angels and said, “Tell Me the names of these if you are truthful.”” (alQur’an 2:31)

- Knowledge is an instrument, not a goal. It should be used to reach a higher goal of worshipping Allah and seeking His pleasure and reward.

2. Different Divisions of Knowledge and Islamic Sciences

Despite the fact that we’ve lost a lot of books of Islamic Sciences when the Mongols wiped out the Islamic libraries in Iraq, we are still left with a huge legacy of knowledge. All can be divided into 2 categories:

i *Uloom al Ghayyaat* (Teleological Sciences, or Sciences of a Purpose): Studying them should be a goal, not just a means. Examples include the Qur’an, the sunnah, Aqeedah, Fiqh, and Akhlâq.

ii *Uloom al Wasaa’il* (Instrumental sciences): Branches of Islamic sciences, which the scholars have developed to support the understanding of the sciences of a purpose.

-For Quran: Arabic, Tafseer, Fundamentals of Tafseer, Tajweed, Uloom alQur’an

-For Hadith: Usool al hadith, Usool al fiqh, Uloom al Arabia

3. Fiqh, the Master of All Islamic Sciences. Why?

Some scholars considered Fiqh the most honorable science because it takes from all other branches of Shari’ah. For example, fuqaha’ study the Qur’an and Hadith to deduce laws of fiqh. The Qur’an speaks about matters of Aqeedah, commandments and prohibitions, and stories of the past and future. Since commandments and prohibitions are matters of fiqh, some scholars say that fiqh is 1/3 of our deen.

Generally, Fiqh is the practical implementation of the Qur'an and Sunnah.

4. Fiqh as Fard al-'Ayn (Individual Obligation)

There are many aspects of fiqh that are considered an individual obligation, meaning that it is an obligation upon each individual to learn and implement properly. The scholars call this the minimum you must know.

You will be held accountable for this minimum. In addition, that which allows you to fulfill something obligatory becomes obligatory in itself. Examples include wudu', Salaah, Fasting, etc. Others don't become an individual obligation until certain conditions are met first. Hajj becomes fard 'Ayn when you have the means to go (i.e. money, visa, health, etc). At this point it is obligatory to learn the rules of Hajj. Don't depend on your guide because he won't necessarily be able to help you; it's very easy to get lost during hajj. The same goes for Zakah, marriage, and business transactions. Umar Ibn Khataab would beat people out of the market and tell them to go to the Masjid to learn the fiqh of trade before coming to the markets.

5. Fiqh as Fard al-Kifayah (Community Obligation)

Fard al-Kifayah is an obligation upon the community as a whole. If no one in the community performs it, then the whole community is sinful. If some members perform it, then that will be sufficient and the liability will be removed from the whole community. An example of that is the funeral prayer.

Ibn Taymiyyah mentioned that people are like birds, they flock together, they see other people and they imitate them. By looking around and seeing how others pray, they begin practicing in the same way. It is important to know how and why we practice our deen the way we do. When we reach the age of puberty, we need to learn and verify whether what we learned in our childhood (from parents, elders, etc.) is correct.

Defining the Code

Technical Definitions

- Fiqh:

Literally Means: The True understanding of what is intended

Technically Means: The science of deducing Islamic laws from evidences found in the sources of Islamic Law

"To whomsoever Allah wishes good, He gives the Fiqh (true understanding) of the religion"
(alBukhari and Muslim)

® *What is the nature of fiqh?*

Even though fiqh seems like a set of rules and practices, it is still considered part of your faith and belief. We are obligated to believe that we abstain from haraam actions because they have been made forbidden by Allah. Imam at-Tahawi in his Aqeedah book mentioned the issue of the permissibility of wiping over the socks as a part of aqeedah because the Shia and the Khawarij did not believe in this.

® *How can a person become a faqeeh?*

Go to Islamic law school. If you can't, then read as much books of fiqh as possible.

® *What was fiqh like before Islam?*

Nations and tribes had their own laws and customs, or fiqh, before Islam. When Allah revealed the Qur'an, it didn't completely cancel the rules before it. Some were from the time of Ibrahim, like the rituals of Hajj. Others, like Qisaas (retribution) were kept to deter people from falling into evil actions.

Some laws were upheld while others are abrogated. An example of abrogation is when Khawlah came to the Prophet (Peace Be Upon Him) asking him what to do since her husband pronounced Dhihar (haram to approach, just like his mother) on her. The Prophet (Peace Be Upon Him) extended the old rule that it is final divorce. However, Allah cancelled this position.

And those who make unlawful to them (their wives) (by Az-Zihâr) and wish to free themselves from what they uttered, (the penalty) in that case (is) the freeing of a slave before they touch each other. That is an admonition to you (so that you may not return to such an ill thing). And Allâh is All-Aware of what you do. And he who finds not (the money for freeing a slave) must fast two successive months before they both touch each other. And for him who is unable to do so, he should feed sixty of Miskîn (poor). That is in order that you may have perfect Faith in Allâh and His Messenger. These are the limits set by Allâh.

والذين يظاهرون من نسائهم ثم يعودون لما قالوا فتحرير رقبة من قبل ان يتماسا ذلكم توعظون به والله بما تعملون خبير

فمن لم يجد فصيام شهرين متتابعين من قبل ان يتماسا فمن لم يستطع فاطعام ستين مسكينا ذلك لتؤمنوا بالله ورسوله وتلك حدود الله وللكافرين عذاب اليم

And for disbelievers, there is a painful torment. (alQur'an 58:3-4)

® *How does Fiqh work as the Islamic bond in the global Muslim community?*

Fiqh is supposed to be a source of unity. Lack of knowledge has made it a source of division. Hijab for instance is supposed to unify the appearance of Muslim women. The same goes for the beard and the shalwar for men. However, when Ramadhan comes, you always find people arguing about moon sighting, the number of rak'ahs for taraweeh, the speed of the recitation, etc. This can be traced back to the lack of knowledge and acceptance of other valid views.

- Shari'ah:

Literally Means: The straight path. It is also used to denote a stream or a river.

Technically Means: The divine revelation and knowledge which is only obtained from the Qur'an and Sunnah.

ثم جعلناك على شريعة من الامر فاتبعها ولا تتبع اهواء الذين لا يعلمون

"Then We put you, [O Muhammad], on an ordained way concerning the matter [of religion]; so follow it and do not follow the inclinations of those who do not know" (alQur'an, 45:18)

® *Were there other “Shari’ahs before Islam?”*

There existed other Shari’ahs like those of the Jews, Christians, Persians, etc.

® *What was the Shari’ah of the Arabs before Islam?*

They partially followed of the Shari’ah of Ibrahim, especially in Hajj. They did it in their own way though. Another example is the rebuilding of the Ka’bah. They also believed that the water of Zamzam is blessed. When the Prophet (Peace Be Upon Him) conquered Makkah, he found a picture of Ibrahim and Ismail inside the Ka’bah divining arrows. He got mad and said that this was a lie against Ibrahim.

- Tashree’ (legislation):

Literally means: The process of Legislation

Technically means: Establishing the Shari’ah, elucidating the rulings and canonizing the law

شرع لكم من الدين ما وصى به نوحا والذي اوحينا اليك وما وصينا به ابراهيم وموسى وعيسى ان اقيموا الدين ولا تتفرقوا فيه كبر على المشركين ما تدعوهم اليه الله يجتبي اليه من يشاء ويهدي اليه من ينيب

“He has ordained for you of religion what He enjoined upon Noah and that which We have revealed to you, [O Muhammad], and what We enjoined upon Abraham and Moses and Jesus – to establish the religion and not be divided therein. (alQur’an, 42:13)

The two different sources of Tashree’ in comparison:

Divine Legislation	Human Legislation
The primary sources are the Qur’an and Sunnah	The source is humans (parliament, congress, etc.)
For disobedience we are held responsible in this life and in the hereafter.	For disobedience we are held responsible in this life (“Everything is legal until you get caught”)
Accountability is before Allah	Accountability is to the law of the land
Shari’ah defines the universal rules and is unchangeable. However, the outcome of the general rules are subject to change (i.e. Imam Shafi’i gave different fatwas in Iraq than in Egypt)	Laws are changeable according to popular opinion (ex. Homosexuality in some countries is becoming acceptable)
Diving Legislation considers both positive and negative repercussions of laws (i.e. there is reward for doing good and punishment for the sins)	Human Legislation only considers the negative repercussions of the law (i.e. usually emphasize the negative, if you pay \$10,000 extra in taxes, you don’t get rewarded. If you pay a penny less, you get fined)

What Then Is the “Evolution of Fiqh”?

Evolution of Fiqh – The legal science which studies the historical factors behind the formulation of Fiqh, its sources (the Shari’ah), the emergence of the Fuqaha’ (Jurists), and the development of the various Madhahib (Schools of Thought), starting from the beginning of the revelation along throughout the different eras until today.

Interchangeable Terminology!

Defining the relationship amongst the different terms:

- Shari'ah: The source of Fiqh and Islamic law
- Tashree': The process/procedure
- Fiqh: The outcome, the deduction
- The Evolution of Fiqh: The history of all

Many English books use the terms Shari'ah and Fiqh interchangeably. Please be aware of the difference.

The Distinction between Fiqh and Shari'ah:

Shari'ah	Fiqh
The body of revealed laws	The body of the rulings deduced from those laws
Shari'ah is fixed and unchangeable	Subject to change based on circumstances
The laws of Shari'ah are considered general principles	The rules of fiqh are specific and detailed

Who is the Musharri'ee?

1. Allah (swt)

"This Day I perfected your Religion for you, completed My favor upon you, and have chosen for you Islam as your religion" (alQur'an 5:3)

- Allah is the ultimate musharri'ee (*law-maker*).

2. The Messenger of Allah

ما افاء الله على رسوله من اهل القرى فله وللرسول ولذي القربى واليتامى والمساكين وابن السبيل كي لا يكون دولة بين الاغنياء منكم وما اتاكم الرسول فخذوه وما نهاكم عنه فانتهوا واتقوا الله ان الله شديد العقاب

"And Whatever the Messenger has given you – take; and what he has forbidden you – refrain from"

(alQur'an 59:7)

- The Prophet was a musharri'ee, but not an independent one. He used to make ijtiḥad and Allah corrected his mistakes.

3. The Sahabah: were they lawmakers?

- They did not initiate the law but were given a certain capacity of ijtiḥad in certain areas to organize and use the rules of fiqh. For example, after conquering the lands of Persia, Umar imposed agricultural taxes on the Persians instead of dividing the between the soldiers.

4. The Fuqaha': were they lawmakers?

- No, But they are the ones who canonized it and made it in the form that we now know.

What are the sources of Tashree'?

1. Qur'an : Unanimous Agreement
2. Sunnah : Unanimous Agreement

3. Anything else?

General Agreement – Ijmaa' and Qiyyas

General Disagreement – Statement of a Sahabi, the Practice of Ahlul-Medina (Imam Malik)

Code Evolved Day 2

- People who don't find a committee that they trust locally, they go to a higher authority.
- Practically speaking in an individual level, the solution is to follow the local community, go with the opinion of the masjid that you pray taraweeh at

Stage 1: Era of the Apostleship

- This was the time when the Prophet (SAW) was giving the message and lasts until he died, 23 years
- Allah (SWA) told us to take whatever the Prophet (SAW) gave us and stay away from what he told us to stay away from
- The Arabs in the entire Arabian Peninsula weren't all equal in tradition. But the one thing they agreed on at that time was that Mecca was the center of their religion and they all had a high respect for it.
- After the Army of Elephants, all of the Arabs considered the people of Mecca as the people of God because Allah saved them from the army.
- Mecca was an urban area, it had fancy people with fancy houses and it was filled with culture. So they had a lot to lose if they accepted Islam, that's why they resisted against the message
- They had strong alliances to tribes and blood relatives. When Islam came, it completely changed that. It was unimaginable that people could be united under anything else besides tribes and blood. Example of this is when the Muslim army came to conquest Mecca and the tribes were entering Mecca one by one in groups, but they were all united under one army under one flag
 - Periods of Legislation
 - Makkan period
 - Before Hijrah
 - Any revelation revealed before the hijrah is considered Meccan regardless of geographical location it was revealed
 - All of the legislations were to establish tawheed
 - Rules of dhabihah was revealed in Meccan period to make a point about tawheed or sacrificing only for the sake of Allah.
 - Codes of Morality
 - Prohibition of zina was during Meccan period but no penal system, it was a moral code.
 - Prohibition of the Sacredness of Life
 - Prohibiting of burying girls alive
 - Salah
 - Revealed early in history
 - Identity of Muslim: maintain daily prayers
 - Needed salah for their own sake, so much difficulty, nothing else eased their pains
 - The lowest moment of the Prophet (SAW)'s life was when he came back from Taif, he had lost everything at that time. This is when Allah (SWA) had him go through the journey of Isra and Miraj and this is when the order of salah was revealed
 - The order during the time of Mecca was complete tolerance, they weren't allowed to retaliate. That is why people were so impressed with the Muslims in Mecca
 - Madinan period

- After Hijrah
- Any revelation after hijrah is considered Madani regardless of geographical location, so even ayaat revealed in Mecca but after hijrah is called Madani
- When the Prophet (SAW) entered Medina, he became the leader of a state automatically, he had to create a system
- In Medina, legislation was all about establishing the law and society
 - The other five pillars of Islam were revealed
 - The rules of trade
 - Commercial law
 - Penal system
 - The legal system is more about deterrence than punishments, try your best not to go through with the punishments
 - In order for someone to be penalized, it had to go through a long process
 - Az-Zubair had an issue with his neighbor once with a river going through his land. He used to block the river until it reached a certain amount and then release it. The neighbor didn't like it so he complained with the Prophet (SAW) and the Prophet (SAW) allowed Az-Zubair stop the water until it reached a certain amount and then release it. The man still didn't like that judgement and accused the Prophet SAW of favor his cousin, so the Prophet re ruled and told Az zubair to take his full share then release the water
 - Political System
 - Not arbitrary, there was shura, ex. Right before the battle of Badr
 - Shura was a binding law, but it allowed people to give their opinions, consult, He (SAW) gave final judgment
 - Sahaba facing different elements
 - Rights of Minorities
 - Examples for the first code of Law
 - First constitution: The text of the charter of Islamic alliance. Treaty within the Muslims
 - Established sovereignty, nation state of Muslims under the flag of Islam as opposed to tribes and blood
 - Focused on certain rules that engaged the entire community, citizen culture, everyone became responsible to establish the law
 - Never execute law under own hands, if something was needed, had to go through the system
 - First inter-Muslim relationships treaty
 - Recognized minority group (Jews) as equal citizens, they were given respect and were considered as one with the Muslim community
 - Mutual respect and establishing justice regardless of the religion of the person: "The wronged party shall be aided"
 - This gave the Jews a sense of security

○ Sources of Legislation

- Quran
 - General content of the Quran
 - Revelation related to faith
 - Revelation related to commandments
 - Revelation related to stories and history
 - The legal content in the Quran dealt with two:
 - Dealing btw Allah and man "ibadat"
 - Dealing btw men "mu'amalat"
 - Makkan Quran
 - Short ayaat
 - Refute arguments
 - Ayaat that start with "Oh people" are usually Makkan
 - Madani Quran
 - Longer ayaat
 - Longer dialogue with the believers, usually have ayaat that start with "Oh you who believe"
 - Basis of legislation in Quran
 - Brevity
 - Haram was mentioned more than the halal because you can count the haram, everything else is halal
 - Removal of difficulty
 - Laws seem harsh but the point is to remove difficulty
 - Allah says there is life in capital punishment
 - Victims family have option to forgive and ask for blood money
 - Eating haram if you need it to survive
 - Reduction of religious duties
 - Shortening prayers when traveling
 - Fasting one month of the year
 - Not fasting while traveling
 - Realization of public welfare
 - The shariah was revealed for the good of the public, even fasting the month of Ramadan is for the good of the public
 - Realization of universal values
 - Justice
 - Supporting the truth
 - Inclusion
- The sunnah of Rasullulah
 - In fiqh it's anything that comes from the Prophet (SAW) in the form of his word, actions or silent approvals
 - The scholars of hadith add his character and physical traits as part of the sunnah
 - For the people who study theology, its sunnah vs. bidah
 - Relationship between sunnah and hadith: hadith is the text, the sunnah is the ruling extracted from the text, it's not the hadith itself, it's what the hadith teaches us.
 - Quraniyyun: people who think authority is only from the Quran, don't believe in the sunnah
 - The basis of legislation in the sunnah:
 - Interpretation of the laws of the Quran

- Ex. How to pray
- Implementation of the laws of the Quran
- Establishing the codes of law
 - Certain terminology the Prophet(SAW) used became law. Ex. la darar wa la dirar
- Left ijtiḥad allowable
 - Ex. The sahaba on the issue of praying Asr at Bani Quraydhah, some took the spirit of the text and some took the literal words of the Prophet (SAW)
- Characteristics of Fiqh in this period
 - Marked the beginning of the evolution
 - Islamic law was still in primary stages
 - Terminology weren't introduced
 - Fiqh wasn't defined as an independent science
 - No documentation of fiqh rulings

Stage 2: Era of the Righteous Khulafa

- Lasted until Ali gave up the khalifa to Muawiyah
- The year of delegation helped expand Islam in the Arabian peninsula
- The Muslims went to war when stated declared war on them
- Did Islam spread by the sword?
 - Invalid question, natural evolution of the states, expanded just like every other nation expanded.
 - Why they went out and what moral code they had made the big difference
 - They built cities and left people to own religion
 - Book: Lost History of Christianity, 1000 years of Islam and Christianity in Middle East by Jenkins
- Major events of this period:
 - Compilation of the Quran by Abu Bakr (RA) and Uthman standardized it and distributed it
 - Expansion of the state
 - The first fitnah, civil war between Muslims
- Methodology of the Sahabah
 - The companions were very cautious when giving fatwas, made sure they didn't speak without knowledge
 - Refrained from excessive narrations of hadith
 - Sahabah were independent when it came to ijtiḥad
- Characteristics of Fiqh
 - Absence of factionalism (self interest)
 - Realism of fiqh, only answered questions that were relevant at that period of time and only issues that existed, didn't answer what-if questions or hypothetical questions.
 - Easiness of arriving at ijmaa
 - The khalifa decision established law

Stage 3: Era of the young Sahabah and the Tabi'in

- People used to travel to collect hadith
- Assassination of Uthman (RA)
- This is when people started doubting when people said the Prophet(SAW) said something, this is when they started asking for sources (quote in book page 21)

- During the Ummayyad period
- Ali (RA) moved the Islamic capital to Iraq
- This is when the first organized khawarij group was formed
- Another group had an excessive love for Ali, developed into modern day Shiism
- Hassan took over the khilafa after Ali RA died, but he stepped down and Muawiya took over.
- Political situation was fragile and Muawiya made a drastic measure: he changed the system to a monarch system, he proclaimed his son Yazid as the next khalifa
- Many sahaba were not happy with this decision
- The early times of the Ummayyad period was a rocky period, things got better during the time of Marwan ibn Hakam, had golden ages then.
- Islam reached Andulus, Azerbaijan and nearly China
- New cultures, new questions and new populations embraced Islam
- Ummayyads didn't embrace the diversity of the Muslim Ummah within government, wanted to keep power within the Arabs, so the non-Arabs were not happy with their rule, the Abbasids also developed animosity towards the Ummayyads. There was a revolt and the dynasty fell and the Abbasid dynasty rose.
- Characteristics of the Stage
 - Geographic expansion which brought new questions in fiqh due to new cultures and new people
 - Establishment of new urban areas
 - Political turmoil
- Factors affecting Fiqh
 - Division of the ummah
 - Turbulence in the arena of knowledge
 - Scholars started running away from the spotlight, didn't want to be pressured into giving pledge of allegiance to certain rulers that they didn't approve of, or they rejected certain judge positions and were imprisoned
 - Political leaders wanted to have relations with the families of the scholars by marrying their kids to their kids, but the scholars also resisted this. Ex. Story of Said ibn Musaiyyab hastily marrying his daughter to his student to avoid the pressure of the khalifa to marry his son
 - Polarization of communities
 - Different madhahib
 - Narration of hadith became popular
- Aqidah and Fiqh
 - When you mix aqeedah and fiqh, you get weird types of ahkam
 - Some people started double the credibility of the sahaba (Shia fiqh)
 - Difference of aqeedah + fiqh = new madhab
 - During this time, mainstream belief was ahl assunnah, it was supported by the state
- Age of the Primary madhahib
 - Two main methodologies during this time:
 - Hijazi
 - Called hijazi because it was developed in the area of hijaz
 - Came from a more bedouin, traditional, not diversion region, not used to philosophical debates (didn't like it), never used hypothetical scenarios to answer question, were against reason (philosophy)
 - This fiqh wasn't as expansive as the Iraqi madhab

- If there was no evidence from the Quran and sunnah, they stayed away from answering towards the beginning, very loyal to text. One of these people was Abdullah ibn Umar, he was extreme in his following the way of the Prophet Muhammed (SAW) due to his extreme love of the Prophet (SAW)
- Umar ibn al-Khattab was the complete opposite of his son
- They were the vast majority
- Iraqi
 - Rulings of shariah are based off of perceivable and identifiable reasons, and it was the duty of the scholar to go after that reason to understand
 - If it was prohibited, there has to be a reason why. They wanted to be able to take that reason and apply it to future questions and issues.
 - This methodology was adapted from the Persians
 - Asked to many questions, what-ifs
 - Extensive use of reason, legal texts, based off of philosophical texts in sham
 - Centered in Kufa
 - Called the what iffers (Araaytiyyoon)
- There was overlap between the two schools

Stage 4: Era of the great Imams of fiqh

- The golden ages, from the end of the Umayyad to mid Abbasid
- The Abbasids and the shias united against the Umayyads
- Most of the beautiful aspects of Andulus happened during the time of the Umayyads
- The first leader under the Abbasid era, Abu Abbas
- Abu Jafar al Mansour, father of Abu Abbas, built Bagdad
- One million people were living in the city, it was considered significant at that time. It was beautiful.
- The Abbasids wanted to recover from the mistake of the Umayyads, so they opened all doors of government to the non-Arabs, they were very inclusive.
- They did very well in the beginning
- Their leaders had a unique system, many of the political leaders were the scholars.
- Their entertainment at the time was listening to the debates and talks of the scholars and the intellectuals.
- The state appreciated knowledge and supported knowledge, but this led to a huge fitnah
- Characteristics of the Stage
 - Period of the great imams
 - This is when fiqh was established as a science
 - Dispute over use of fiqh, differences became more systematic that they started developing schools around each thought
 - Imam ash-Shafi'i...
 - Emergence of juristic code
 - It was very sophisticated and only people who could understand the language of usul and were qualified could understand it.
 - Evolution of madhahib
 - Towards end of era, the madhahib that we know today became formal institutions of fiqh, more than just a methodology
 - Documentation of fiqh began
 - Could find a fiqh book
 - First early founders was imam ash-Shafi
 - Absence of factionalism, still didn't fight over differences of opinions

- People used to study under different scholars and different madhahib, it wasn't a problem at all
- Factors that effected fiqh
 - State supports of scholars
 - Abbasids invested in the scholars, they created a movement of translation, started by Al-Ma'moon. They translated everything.
 - Freedom of intellectual research
 - Increase center of learning
 - Spread of debate and discussion
 - The infiltration of fiqh and usul by logic and scholastic theology
 - The emergence of new sects
 - Al-Mutazilah, favored reason over revelation
- Aqidah and Fiqh
 - Al Mutazilah say that the Quran is a creation of Allah, not Allah's speech, became the highlight of debate between the philosophers and the orthodox scholars
 - Al-Ma'moon accepted the methodology of the mu'tazila and removed everyone who was opposed to it from governmental positions.
 - This caused a great trial for the fuqaha
 - They rejected certain ahadith if they didn't understand the logic behind it.
 - Ahl asunnah, once it proven to be authentic, we accept it.
- Evolution of Madhahib
 - 13 great imams of fiqh (pg. 27)
 - Al-Awza'i, Abdirahman ibn Umar
 - Hijazi
 - spread in Al-Andulus and Ash-Sham because it was the official madhhab of the Ummayyad in ash-Sham, and when they went to Andulus they took it with them
 - Sufyan ibn Said al-Thawri,
 - tabiu at tabieen,
 - was in Al-Kufa,
 - Al-Mahdi, one of the rulers of the Abbasids era wanted him to be a judge in kufa and so he went into hiding to avoid it.
 - Abu Hafs? Al-Layth ibn Sa'd.
 - Was from Egypt,
 - close to becoming governor of Egypt, but he refused,
 - Imam ash-Shafi was one of his students, he was shocked at the level of knowledge al-Layth had, but his students failed in spreading it.
 - Sufyan bin Uyaynah
 - originally from Iraq,
 - became great Imam of Mecca,
 - one eyed, died in Mecca
 - Left a great legacy in tafseer
 - Ishaq ibn Ibrahim ibn Makhlad Rahaway
 - Was in Maysaboor, modern day Iran
 - Ameer al mumineen in hadith was his title
 - Inspiration of imam al-Bukhari
 - Imam Ahmed said of him, "There is no one who is equivalent to Ishaq"
 - Abu Thawr, Ibrahim ibn Khalid

- People use his philosophical statement about women leading the khutbah on Friday to support their opinions, but it is not fair to use this, he would never go against the ijma
- Ibn Jarir al-Tabari
 - One of his books translated into English language, Tarikh al-Kabeer

Code Evolved Day 3

- During the time of the earlier scholars, writing wasn't easy, so many people memorized.
- The first Imam who wrote his madhhab was Imam ash-Shafi.

The Four Imams and their Madhahib

Three reasons why madhahib stay and flourish:

- State support
- Studious and enthusiastic students who pass down the knowledge
- Another reason not as important but also important is the survival of the works of the imams

Abu Hanifah, al-Numan ibn Thabit

- His fore family is from the free people of Persia
- Thabit, his father, met Ali ibn Abi talib when he was a child
- He was born during the time of the Ummayyad and died during the time of the Abbasids
- His grandfather embraced Islam
- Definition of sahaba is someone who met the Prophet (SAW) embraced Islam and never committed apostasy
- Abu Hanifah met one sahaba, but even that is disputable.
- He lived during the generation of four of the sahaba, one of them was Anas ibn Malik
- Teachers of Abu Hanifa:
 - Hammad ibn Abi Sulaiman, one of the greatest influences of Abu Hanifa. Abu Hanifa used to always make dua for him
 - Hammad ibn Abi Sulaiman studied with Ibrahim an-Nakhai who was one of the lead founders of the Iraqi school
- Imam Abu Hanifa was the first before the other three madhahib
- What makes his methodology different from the other madhahib? He was influenced by the Iraqi school methodology
- He would favor the words of the fuqaha over the muhaditheen of the sahaba when he studied matters of fiqh. Ex. Words of Ibn Abbas over Ibn Umar, Ibn Masood over Abu Hurayrah
- Abu Hanifa was very confident when he gave fatawa
- Ex. Abu Hanifa is of the opinion that you don't raise your hands after the takbeer al Ihram, that is because he took the hadith of Ibn Masood, the hadith in Al-Bukhari by ibn Umar states something else, either Abu Hanifa wasn't aware of this hadith, or at his time its authenticity wasn't as clear, and so he favored the hadith of ibn Masood to Ibn Umar because Ibn Masood was a senior sahaba
- Major references for the Hanafi madhhab
 - Statements of Imam Abu Hanafi
 - Abu Yusuf al-Qadhi was one of his prominent students
 - Books of Muhammed ibn Hassan Ash-Shaybanni
 - Read Imam Maliks book Al-Muwatta and was impressed, but he wanted to confirm his copy of the book with the author Imam Malik, so he also became a student of Imam Malik
 - His opinions are a mixture of both Abu Hanifa and Imam Malik, but he was an Imam of the Hanafi school
 - The surviving copy of Al-Muwatta is his copy
 - The final authentic compilations
 - Prominent fuqaha of Hanafi madhhab (pg.29)
- Areas that follow Hanafi madhhab

- Indian subcontinent
- China
- Afghanistan
- Europe
- Bosnia
- Egypt
- South Africa, from immigrants from India
- Turkey
- Syria
- Mongols when they wiped out the Abbasids and became Muslims, they adopted the Hanafi school as the madhhab of the state
- Ottomans spread Hanafi school to Turkey, Palestine, Syria, Egypt, central Europe
- It wasn't because it was the best, it's because it was the one that was available.

Imam dar'I-hijrah, Malik ibn Anas al-Asbahi

- Originally from Yemen, born in Umayyad period and died during the time of Haroon ar Rashid
- One of the greatest muhadiheen, devoted to the sunnah, lived in Medina, he never left his home town because Medina was the hub of knowledge and all of the scholars were there
- He was famous for his book and an event:
 - Book: His book Al-Muwatta was the first book of hadith and fiqh, it was a very famous book
 - Imam ash-Shafi was a student of Imam Malik
 - Event: When the Abbasids took over from the Umayyads, they used to make people make allegiance to them by saying that if their allegiance was broken their wife was divorced. When Imam Malik was asked about this, he said the divorce doesn't count. The Abbasid governor in the region took in Imam Malik and beat him for saying that
 - When the khalifa Abu Jafar heard about this, he was upset and punished the perpetrators and apologized
 - Abu Jafar al-Mansour suggested that imam malik put the Mawatta together when Imam Malik refused a political position and asked him to avoid the concessions of ibn Abbas, the strictness of ibn Umar, and the odd opinions of ibn Masood
 - The book al-Muwatta means the paved path, it was the paved path for knowledge
 - The khalifa used to take care of him by supporting him financially
- His usul: everything has to go back to Prophet (SAW), has to have roots. Practice of the people of Madinah was his preference when there was a dispute
- He didn't adhere strictly to his usul, he used to be open to public welfare a lot
- He was an advocate of blocking the means to evil
- Very critical of ar-Rai, the Iraqi school. Because he was a muhaddith, he strictly adhered to the text
- Areas that follow Maliki madhhab
 - North and west Africa, Sudan
 - Western Europe, due to heavy presence of North African immigrants
 - Maliki madhhab took over al Awzai madhhab that in al-Andulus

Imam Al-Hashimi al-Muttalib, Imam Ash-Shafi

- His name was Muhammed ibn Idris ash-Shafi
- He was of the bloodline of the Prophet (SAW)
- Born in Gaza
- His father passed away and his mother took him back to Bani Huday in Mecca

- He spoke the pure Arabic since he was a child because he grew up in the desert where the Arabic was pure, he knew the pure Arabic of the Prophet (SAW)
- Considered an authority in Arabic language
- He received the Muwatta in Mecca, memorized it, went to Medina to study with Imam Malik
- When he was in his 20's he became a governor in an area in Yemen
- Some people were not happy with this, so they spread rumors that he was a support of the Alawites against the Abbasids, the khalifa took him in and brought him to the court in Baghdad
- They interrogated him to figure out his loyalty, found him innocent
- In Baghdad, he met the students of Imam Malik
- He began producing opinions in fiqh at a young age based off of the resources he had
- He left Baghdad and went back to Mecca, then went back to Baghdad where he met a new scholar, Imam Ahmed ibn Hanbal who became his student.
- He then traveled to Egypt and that is where he died
- He wrote a new book based off of the new knowledge that he gained when he went to Egypt in his new book, al-Madhhab al jadid (Al-Umm). He changed some of his opinions when he gained more resources
- His Usul
 - He put the Hadith and the Quran on the same level, as opposed to Abu Hanifa who put the authority of the Quran over the Sunnah
 - fard and wajib was interchangeable
 - Preferred the statement of the sahaba over analogy
 - Main criticism of the school, they were really strict and meticulous.
 - Fiqh is strict in devotional acts
- His book Usul'l Risalah was a letter he wrote to his friend who asked a question about the usul
- Every time he taught his book, he would remember something and change it, then he said his famous statement, Allah refused to make any book perfect but His
- His book ar'Risalah was the first book on usul'l fiqh
- Area that follow Shafi madhhab
 - SE Asia
 - East Africa
 - Yemen, Amman, came with Salah adeen
 - South India, with trade
 - Ash-Sham, came with Salah adeen al ayyoubi
 - Central Asia
 - South Africa

Imam Ahl as-Sunnah wa al-Jama'a, Ahmed ibn Muhammed ibn Hanbal ash-Shaybani

- Born in Baghdad
- He grew up as an orphan
- His mom used to wake him up for Fajr and take him to the masjid
- Some of the early educators of the kids of the khulafa were the mutazili, or a philosophical path
- The khalifa at the time Al-Ma'amoon adapted the mutazila theology
- The scholars refused to accept this, this is when they started to get persecuted and the debate about the Quran being the words of Allah or His creation became the biggest issue
- He was going in and out of prison for resisting against this movement
- Imam Ahmed spent 28 months in prison in total and being tortured

- Al-Muttasim, who was the son of al-Ma'moon took over and put Imam Ahmed in prison, when he died, his brother released him but kept him in house arrest, and then his son restored the manhaj of ahl assunnah
- The ummah was going through so much fitnah at this time since the time of the apostasy during the time of Abu Bakr. Allah saved the ummah by two men, Abu Bakr and Imam Ahmed
- His usul
 - Very conservative
- Some of his principles:
 - Sometimes it's confusing because it's less systematic because he was a muhaddith. He might have several opinions on a certain issue.
 - It took a while for scholars to accept Imam Ahmed as an organized school of thought or institution of fiqh
 - He was a muhaddith, never declared himself as a faqeeh. He never wrote a book of fiqh
 - His students did a good job in reorganizing his work to make it more systematic and it was established as a school
 - He was anti-Rai (philosophy) because he believed it would lead to the fitnah that he had to go through
 - He accepts the interpretation of a weak hadith over an analogy or ijtihaad based on human reasoning
 - All the sahaba were equal in terms of authority
 - He would prefer to take the word of the sahaba over sound reason, he was loyal to the text
 - Didn't leave a legacy in usul, his students compiled his work
 - His two sons were his faithful students of knowledge, they compiled a lot of his opinions and answers to questions he was asked.
- Some criticism:
 - One of the strictest madhhabs
 - Mostly followed in Saudi Arabia

The Thahiri Madhhab

- Literalist methodology
- Founded by Dawood ibn Ali ath-Thahiri
- They don't go beyond letter of the text
- Some of the opinions that they followed were considered ridiculous by some scholars
- Ali ibn Ahmed ibn Hazm al-Andalusi revived the thahiri madhhab when Dawood ibn Ali died
- The great imam of al-Andalus
- His madhhab was called al-Hazmiyya
- Grew up in a palace as a son of a minister in Spain
- He was spoiled
- As he grew older, he became a minister twice for the Umayyads
- Lived in the last era of the Umayyads time when there was a power struggle
- Had a harsh approach when he spoke about the other scholars to start a debate
- Promoted free thinking
- His principles
 - He was very strict
 - He was against the rigidity of the classical madhahib in his area
 - He doesn't believe in qiyyas, the text itself has enough hukum that no reason to look at the reason behind it
 - He was against the culture of taqlid, or uncritical following of scholarships

- Ex. Of his literalism: The Prophet (SAW) said you can't use stagnant water that has been contaminated by urinating in it, he believes that it only is najasa if you urinate directly in the water, otherwise its not
- He was hated by his people for a long time and his books were burned and he was expelled but he was very consistent and he was an encyclopedia of knowledge, he memorized all of his works

Ahl al-Hadith

- Methodology existed since the time of the sahaba, but it wasn't given the same political support as the other madhhabs
- Some contemporary scholars of hadith say that the people who follow the madhhab of ahl al hadith are ath-thahiri

Khilaf and Ikhtilaf

- Some scholars define khilaf as disagreement and difference of opinions
- Categories of Khilaf
 - Acceptable differences- khilaf al-mu'tabar
 - Diverse: Not contradictory, both overlap
 - Ex. Sunnah actions in salah
 - Contradictory: two opinions are exact opposites, one has to be wrong
 - Responsibility of the layman is to follow one opinion and not argue over it, it's the responsibility of the scholars to figure out which is wrong
 - Unacceptable differences-khilaf gair al-mu'tabar
 - impermissibility of Zina and the obligation of fasting Ramadan are well known and can't be debated
- The reasons for Differences
 - Human differences
 - Level of knowledge
 - Exposure to resources
 - Their upbringing
 - Openness to ijtiḥad or not
 - Transgression between scholars
 - Lack of proper knowledge
 - Following their desires
 - Political differences
 - State support
 - Scholars pressured to follow a certain madhhab
 - Political loyalties
 - Differences over textual proofs
 - Availability of the hadith
 - Might not have same access as others
 - Could have had the same access, but disagreed over the authenticity of the hadith
 - Could have had the same access and agreed over authenticities, but maybe they had different filters
 - Resolution over the textual conflict, disagree over methodology to reconcile between hadith
 - Ex. Don't fast on a Saturday unless obligatory upon you, but one day he found the women of his house fasting on a Friday and asked if they fasted

the day before or if they were going to fast the day after (Saturday), when they said no, he told them to break their fast. some would say prohibition takes precedence, some say no direct speech in the second hadith takes precedence

- Interpretation Difference
 - Agree on evidences, but disagree on interpretation
 - Ex. Touching opposite gender breaking wudu, some take it literally, some take it as a sexual approach
 - Ex. The length of the idda
 - Differences in understanding Arabic grammar in the Quran and the hadith, ex. The ayah about making wudu says up to the elbow, does that include the boundary or until the boundary of the elbow
- Differences over juristic methods
 - Differences in methodology
 - Classify principles differently, make fiqh opinions based on this
- We have to accept pluralism in fiqh, but this doesn't mean you are not allowed to debate and discuss

Stage Five: Era of the four Madhahib

- The madhhab rivalry
- Characteristics of the Stage
 - Political disorder
 - Preoccupation with external invasions
 - Towards the end of the phase, that was the sacking of Baghdad by the Mongols
 - They leveled every land they went through
 - The biggest loss was the loss of the library in Baghdad, the books were dumped into the river
 - Knowledge declined dramatically
 - The discovery of paper
 - Came from China and went all the way to Andalus
 - Emergence of factionalism
 - This is when people began to ascribe to certain institutes
- Factors that affected fiqh
 - Reduction in the number of madhahib
 - Madhahib reached final form of systemization
 - Promotion of individual madhahib
 - Compilation of encyclopedias of fiqh
 - Widespread of hypothetical fiqh
 - One of the side effects of perfecting the law, people started to make hypothetical questions to help the students understand fiqh
 - But this went out of control, people started asking irrelevant questions towards the end of the era
 - The end of independent ijtiḥad and the beginning of taqlid
 - This was the reason for the long stagnation era after, even though the intention was to preserve the deen
 - Standardized format of fiqh writing
 - "When students want to study fiqh, they open the book they start with tahara, then they go into water, they drown there and never get out"

- Comparative fiqh
- Loss of the great libraries of Baghdad
- Role of the scholars
 - Studying individual madhahib
 - Perfect system of own madhhab
 - Favoring one opinion over another in the same madhhab, tarjih
 - Pick official opinion of school
 - Advocacy of 'madhhabism'
- The ethics of Disagreement
 - Have to accept that pluralism in fiqh is a reality
 - There are etiquettes that have to be observed when discussing these issues
 - The golden rules of disagreement:
 - Learn that the infallibles are only the Quran, sunnah, ijma of the sahaba
 - Accept that there is a chance that whoever you quote as a source of knowledge is wrong
 - There is no ikhtilaf in matters that are well established in the shariah
 - If there is an ikhtilaf, look at it as a mercy from Allah
 - The obligation of the believer is to seek the truth
 - Truth comes in different formats, laymen doesn't know how to differentiate, follow the authority that you trust
 - One can't ban the discussion of another opinion
 - The golden ethics of disagreement:
 - Identify terminology
 - Agreeing on the term "madhhab" for example
 - Name your sources
 - Don't judge intention, judge statements
 - Always keep a margin of error on your side that your argument might be wrong
 - Accept that your opinion is wrong
 - Give person a chance to reply to your statement
 - Always bring the discussion back on track
 - Be united on the principle of unity even while having disagreement
 - If you argue with the ignorant, they will defeat you
 - "if the sun rises before its time, when can you make suhoor" question asked to Abu Hanifa
 - It's not about winning the battle, it's about winning the minds and the hearts
 - The golden tips for after disagreement
 - Always find an excuse for your opponent
 - Maintain the spirit of brotherhood or sisterhood
 - NO labeling or name calling
 - Know that enforcing your opinion on others is not possible
 - Always remember to respect our notable imams from both past and present

Stage six: Era of the taqlid--uncritical following

- The reaction to the invasion of the Europeans into the Muslim land was the establishment of madaris and katateeb, going to the the desert and learning Islam traditionally to preserve the Muslim identity
- It helped preserve the identity to a minimum

- Fiqh between ijtiḥad and taqlid
 - Ijtiḥad is the path of independent research in fiqh where you make opinions by going back to the sources of law
 - Taqlid is the uncritical following of a qualified person
 - Another degree between ijtiḥad and taqlid, which is at-tiba', the critical following of a qualified person. These people make an educated decision
 - The scholars of taqlid say no one should do at-tiba' because the average Muslim doesn't have enough knowledge to make that decision
 - The more you know, the more educated decision you make
 - A lot of people in America are critical followers, they ask why questions
 - When you give the people the option of only taqlid, they become subjected more to the fuqaha and the scholar than to Allah, when you give the people the option of at-tiba', you subject them to Allah and you leave it to them and Allah
 - Are you obliged to adhere to one particular madhhab?
 - It depends
 - If layman, follow what opinion makes the most sense (at-tiba')
 - If an academic and want to study fiqh, start with one madhhab. Start with the one that is closest to you, if in Pakistan, study the Hanafi school for example

Stage Seven: Reformation Era

- The Europeans when they invaded the Muslim lands, they removed the shariah and the lands went into chaos
- They split up the Muslim lands and created border issues between the Muslims, ex. Split the Kurds between five countries
- Characteristics of the stage
 - Absence of central Islamic government
 - Secularism vs. Islamism
 - Salafism
 - Islamic movements through politics
 - There is no such thing as a nation state in the world now that rules by Islamic law, they pick and chose what is convenient for their states, some are close like Saudi, but not complete.
 - Establishment of nation states
 - Globalization era
 - Establishment of Muslim minorities in the West
 - We have a phenomenon that never happened in Islamic history: Muslims voluntarily moving to non-Muslim lands
- Factors affecting fiqh
 - Establishment of the Islamic Fiqh Academy
 - Academia and Islamic Universities
 - Traditional learning of Islam almost disappeared
 - Comparative fiqh studies
 - Studying one particular madhhab in America is not a reality, because we are so diverse
 - Prevalence of literacy and the internet
 - Spread of knowledge became quick and easy, but quality of it is declining
 - The quality of the student of knowledge is declining as well
 - We have to preserve the classical knowledge and build on it
 - Pressure of modernizing in fiqh and usul

- People are calling to change not only our approach in fiqh, but the usul as well
 - The ummah today is now divided into two groups, rational school and the traditional school
- Fiqh and Fatwa today
 - People don't have any respect for the fiqh and shariah anymore
 - People think they can give their own fatwas
 - You have to support the haqq and the truth no matter what
 - People always want to ask the "celebrity" imam, which is not correct, it might be that the anonymous scholars in your community are more learned, should always go to the local imam.
 - Take online classes if you don't have a qualified person in your community
 - It will structure the way you learn, even if you don't become a scholar, it will give you structure
 - The whole point of all of this is to learn your limits