

Fiqh: Its Importance and the Methodology of Studying It

Abū Ḥakīm Bilāl b. Aḥmad Davis (حفظه الله)

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

The Importance, Definition and Goal of Fiqh

It should be known that the methodology of our Pious Predecessors is not only applicable to the study of ‘Aqīdah, but this methodology is applied to every aspect of the religion. As Shaykh Nāṣir ad-Dīn al-Albānī (رحمه الله) used to regularly mention when he was alive, that our da‘wah revolves around Taṣfiyah (purifying) and Tarbiyyah (nurturing). Purifying Islām from that which has crept into it from the things that are alien to it and nurturing generations upon this pure Islām.

With that being the case, this likewise applies to the affair of Fiqh (Islamic Jurisprudence). For indeed, much has crept into the affair of Fiqh from that which was not present at the time of the Messenger (صلى الله عليه وسلم). Of course, not all of that is blameworthy, but from it, whether it be that which is connected to Fiqh itself or the science that services Fiqh (i.e., Uṣulul-Fiqh) there are and were principles that have crept into the realms of these two sciences that are alien to it and that our scholars have repelled from the study of this science.

This science is from the most important of the sciences that one may study and as the scholars mention, it is without doubt coupled with the study of the ‘Aqīdah al-Islāmiyyah as-Salafiyyah. And what we mean by it being coupled with the study of the ‘Aqīdah is that the origin is that the scholars categorise ‘Aqīdah as the study of those things that ordinarily do not return back to outer actions—and that is how it is understood with the general people—while the People of Knowledge define Fiqh as the study of the actions that one performs i.e.,

the acts of 'ibādah, and so on. Thus, we must understand this important, inseparable bond between the study of the 'Aqīdah and the study of Fiqh.

The scholars define Fiqh as to have knowledge of the aḥkām ash-Shar'īyyah (rulings of the Sharī'ah) that connect to action. These rulings being extrapolated from their detailed proofs.

The scholars categorise the areas that Fiqh studies, and there are different methods of categorising these areas.

1. There is a broad and general categorisation that some of the scholars use:
 - Fiqh al-'ibādāt (the Fiqh of the acts of worship). And as far as the acts of worship, then of course, they are speaking about Ṭahārah, Ṣalāh, Zakāh, Ṣiyām and Ḥajj etc.
 - Fiqh al-Mu'āmalāt (the Fiqh of the dealings and transactions). They intend by way of that Buyū' (buying and selling), marriage, divorce, Ḥudūd, and so on.
2. There are those who categorise the affair in a more detailed manner and bond the acts of 'ibādah and Mu'āmalah (dealings and transactions) with the affair of Jihād, which they mention as a third category that comes between the affair of 'ibādāt and the affair of Mu'āmalāt.
3. And then there are those who have more detail, and so they will say that Fiqh revolves around:
 - The 'ibādāt (acts of worship) like Ṣalāh, Ṣiyām, Ḥajj etc.
 - The Aḥwāl ash-Shakhsīyah (that which is related to the personal and social affairs) such as the rulings related to the family, Nikāḥ, Ṭalāq, dealing with the children, Nafaqah, guardianship rights of children etc.
 - Al-Mu'āmalāt, that is the affairs that are connected to dealings and transactions like buying and selling.
 - Al-Aḥkām as-Sultāniyyah (the rulings related to the ruler/state).

- Al-‘Uqūbāt (the prescribed punishments), and by way of that they intend the rulings related to Ḥudūd (the established punishments), blood money, and other than that.
- Al-Ḥuqūq ad-Du‘aliyyah (that which is related to the connection of the state to other states) whether other Muslim countries/lands or non-Muslim lands.
- Al-Ādāb (the general mannerisms of the Sharī‘ah and the mannerisms among the Muslim).

Regardless of which categorisation you use, as the scholars mention, these categorisations and terminologies all ultimately return back to one and the same affair and area of study. And when we are talking about Fiqh we are generally looking at the outer actions.

In many places in the Qur’ān Allāh (عز وجل) mentions «إِلَّا الَّذِينَ ءَامَنُوا وَعَمِلُوا الصَّالِحَاتِ»

﴿وَالْعَصْرِ ۝ إِنَّ الْإِنْسَانَ لَفِي خُسْرٍ ۝ إِلَّا الَّذِينَ ءَامَنُوا وَعَمِلُوا الصَّالِحَاتِ وَتَوَاصَوْا بِالْحَقِّ وَتَوَاصَوْا بِالصَّبْرِ﴾

“By (the phenomenon of) time (which Allāh manifests through His creation of night and day and in which the servants perform their deeds). Indeed, (all of) mankind is in loss.

Except those who believe (in Allāh, His Angels, Books, Prophets, the Last Day and the Divine Decree) and work righteous deeds (which are sincere and correct) and mutually advise each other (in calling to and abiding by) the truth and mutually advise each other with patience (in facing the inevitable harms brought by calling to the truth).” [Sūrah al-Aṣr

103:1-3]

And so, we see that Allāh (عز وجل) couples the affair of righteous action with belief, and belief with righteous action. This is something that you will find plentifully in the Qur’ān.

Additionally, the scholars mention that there is this talāzum (bond and connection) between the Sharī‘ah and ‘Aqīdah from the angle that when a person carries out an act of worship or a particular affair on the basis of that which Allāh (عز وجل) has revealed in His Qur’ān or that

which Allāh gave to the Messenger (صلى الله عليه وسلم), he carries the action out but he has a belief in his heart that is coupled with the performance of that action.

For example, when a person makes Ṣalāh, he makes Ṣalāh believing that Allāh (عز وجل) sees him when he prays, he believes that Allāh (عز وجل) will reward him for the Ṣalāh if it is performed correctly, he believes that on Yawmul-Qiyāmah this would be the first of his actions that he will be reckoned for, he believes that if he does not perform the Ṣalāh that he is under the threat of punishment—in fact, with some of Ahul- ‘Ilm he is a kāfir—he believes that when he prays Allāh (عز وجل) looks towards him and so for example he should not spit to his right due to the presence of the Malā’ikah (angels) and other than that from the nuṣūṣ (texts) that relate to the performance of Ṣalāh. He believes that when he begins his Ṣalāh and makes Takbīr that there is a shayṭān called Khinzab that comes and attempts to whisper to him in his Ṣalāh. When he fasts for example, he believes that each day that he fasts Allāh (عز وجل) distances his face from the Fire the distance of 70 years. When he gives Zakāh, he believes that if he does not give Zakāh, on Yamul-Qiyāmah he will be branded with his Zakāh. And so the actions that we perform, whether they have these specific mentioned rewards on Yawmul-Qiyāmah or punishment for the one who leaves them, or they are from the general actions which he/she believes that he/she will be rewarded for performing, such as a smile, all of these actions are performed and they are coupled with a belief.

And so, while we say that Fiqh is to have knowledge of the rulings of the Sharī’ah that are extrapolated from the detailed proof i.e., rulings of the Sharī’ah related to action, extrapolated from their detailed proofs, we must constantly remember that this has a strong connection to the ‘Aqīdah (belief).

As far as Fiqh is concerned, the goal of every Muslim is to perform actions that are in accordance with that which was carried out by the Messenger of Allāh (صلى الله عليه وسلم) and that which is present in the Book of Allāh (عز وجل). This is an important premise for us to constantly bear in mind when we study Fiqh because it is easy for us to become confused and drown in the sea of that which is related to the statements of the ‘Ulamā’ and the development of the Schools of Thought for example.

The Development of Fiqh in the Era of the Prophet (صلى الله عليه وسلم)

During this time was the development of Fiqh itself. And naturally, when we are speaking about the era of the Prophet (صلى الله عليه وسلم), we are looking at what the scholars refer to as the era of Tashrī (legislation). If we are familiar with the Sīrah of the Messenger of Allāh (صلى الله عليه وسلم), we will know that there were two periods during the lifetime of the Messenger (صلى الله عليه وسلم):

1. Al-‘Ahd al-Makkī (the period when the Prophet (صلى الله عليه وسلم) was in Makkah)

The focus of that which was revealed from the Book of Allāh (عز وجل) and that which the Prophet (صلى الله عليه وسلم) was given from the Sunnah in Makkah, for the most part, revolved around the establishment of the Uṣūl (fundamentals) of the Dīn (religion). There was the legislation of some of the rulings but the general order of the day was that Allāh gave him (صلى الله عليه وسلم) that which is connected to the Uṣūl of the religion [such as] the affairs of the ‘Aqīdah, āyāt concerning Jannah, the Nār, the Hereafter etc.

2. Al-‘Ahd al-Madanī (the period wherein the Prophet (صلى الله عليه وسلم) was in Madīnah)

We had within it a continuation of the fundamentals of the Dīn being revealed upon the Prophet (صلى الله عليه وسلم) alongside the Tashrī of the Aḥkām of the Sharīah (the legislation of the rulings of the Sharīah) such as that which is related to the outer actions like fasting, of course when the Prophet (صلى الله عليه وسلم) went on al-Isrā' wal-Mi'rāj then the Ṣalāh was legislated upon him, and thereafter we had the legislation of the Ḥajj and other than that from the outer actions. And we similarly had the manifestation of many of the rulings related to Mu'āmalāt, buying and selling, trade, that which is connected to marriage and divorce and military expeditions that the Messenger (صلى الله عليه وسلم) went upon. And throughout all of this, the Prophet (صلى الله عليه وسلم) was head of state and so we had the Aḥkām as-Sulṭāniyyah (rulings related to governing the state)—all of that was present during the time the Prophet (صلى الله عليه وسلم) was in al-Madīnah.

And so, when we are looking at Fiqh, all of the areas of study were revealed upon the Messenger (صلى الله عليه وسلم) and he carried out and manifested them while he was in Madīnah. And then Allāh sealed His Sharīah and revealed upon His Messenger prior to taking him (صلى الله عليه وسلم),

﴿الْيَوْمَ أَكْمَلْتُ لَكُمْ دِينَكُمْ وَأَتَمَمْتُ عَلَيْكُمْ نِعْمَتِي وَرَضِيْتُ لَكُمُ الْإِسْلَامَ دِينًا﴾

“This day, I have perfected your religion for you, completed My Favour upon you, and have chosen for you Islām as your religion.” [Sūrah al-Mā'idah 5:3]

As Imām Mālik (رحمه الله) mentioned, “That which was not dīn then, will not be dīn now.”

So throughout this phase we had the revelation of the two main sources of the Sharī'ah: the Kitāb and the Sunnah. And we likewise had in this era that which is related to the Ijmā' (consensus), since the Ijmā' occurred from the time of the death of the Messenger (صلى الله عليه وسلم), and in fact, prior to that. Of course, the Companions were united upon that which the Prophet (صلى الله عليه وسلم) gave to them. And so the affair of Ijmā' as the third source of legislation manifested from the time of the death of the Messenger (صلى الله عليه وسلم) thereafter.

Uṣūlul-Fiqh

Uṣūlul-Fiqh (the Foundations of Fiqh) is the science that services Fiqh. It is the science that the 'Ālim, Mujtahid and likewise the Ṭālibul-'Ilm use to understand and extrapolate the rulings of the Sharī'ah. Since Fiqh is to have knowledge of the rulings of the Sharī'ah related to action, then those rulings of the Sharī'ah first and foremost, what are they? When we say the rulings of the Sharī'ah, what are we speaking about? And this "taken from their detailed proofs", what are we speaking about? This is where we see the importance of the science of Uṣūlul-Fiqh. And so the science of Uṣūlul-Fiqh is fundamental to the Ṭālibul-'Ilm in particular and of course to the 'Ālim Mujtahid specifically. It is of major importance that they understand this science.

At the time of the Prophet (صلى الله عليه وسلم) and the Companions, the revelation was revealed upon them; they were Arab aṣīl so they understood perfectly what Allāh (عز وجل) was addressing them with, and that which they did not understand, then the Prophet (صلى الله عليه وسلم) would explain it to them. They saw the manifestation of those rulings being carried out by the Prophet (صلى الله عليه وسلم); the only thing they had to do was follow and emulate the Messenger of Allāh (صلى الله عليه وسلم) in that which he carried out. Similarly, because of their

close proximity to the Messenger (صلى الله عليه وسلم), they saw how he judged in affairs and how the revelation came down when issues arose. They saw all of this, they observed it, they learned it, they were familiar with it and so they were best placed to pass fatāwá (verdicts) after the Messenger (صلى الله عليه وسلم) since they were nurtured upon these fundamentals. Were they given a book that taught them how to extrapolate? No. Thus, the science of Uṣūlul-Fiqh was not a book that was left by the Companions, but it was developed based upon analysing the Messenger (صلى الله عليه وسلم), that which he passed by way of rulings, that which was revealed to him in certain circumstances and situations and how he dealt with that.

Likewise, analysing that which occurred at the time of the Companions, how they dealt with situations, how they understood text, how they approached text, how they looked at one text in comparison to another, and extrapolating principles from that. Looking at the times when the scholars among the Ṣaḥābah had Ijmā' (consensus), extrapolating principles from that. Looking at the usage of the language within the text and what is to be understood from certain wordings, what is to be understood from the usage of certain letters, what is to be understood from sentence construction, and extrapolating principles from that.

And so we had the development of Uṣūlul-Fiqh, which is the science that services Fiqh, by way of which we will be best placed to approach text and extrapolate rulings that are present within them because of the fact that we have tools to extrapolate. By way of these tools, we are able to extrapolate the evidence, and that then is where the study of the science of Uṣūlul-Fiqh comes into play.

Uṣūlul-Fiqh revolves around studying the rulings of the Sharī'ah and studying the evidences for those rulings and that which is considered evidences in our Sharī'ah. A hugely important topic for the Ṭālibul-'Ilm who wishes to approach studying Fiqh. Regarding the rulings of the Sharī'ah, we are looking at two main areas:

1. Al-Aḥkām at-Taklīfiyyah

These are the rulings that are placed upon actions i.e., what is the ruling in relation to the performance of Ṣalāh, going for a journey with the family, fasting in Ramaḍān or making ‘Umrah. All of these are actions and all of these actions have rulings. The Aḥkām at-Taklīfiyyah revolve around five rulings:

- Wājib (obligatory)
- Mandūb (desirable)
- Mubāḥ (permissible)
- Makrūh (disliked)
- Ḥarām (prohibited)

There is nothing from the actions except that one of these five rulings is applicable to them. What is the ruling upon eating rice for example? There is a ruling; it is either wājib, or it is desirable or it is permissible or it is disliked or it is ḥarām.

2. Al-Aḥkām al-Waḍ‘iyyah

These are the things that Allāh (عز وجل) has placed as an indication of the presence of something else. For example, Allāh has legislated Ṣalāh, and from those Ṣalawāt is Ṣalātuz-Ẓuhr. Ṣalātuz-Ẓuhr is not wājib all day; it is wājib at a particular time, which is when the sun reaches its zenith and begins to move in the other direction. This sign that relates to the sun falls under that which is known as the Aḥkām al-Waḍ‘iyyah.

The Aḥkām al-Waḍ‘iyyah generally revolve around that which Allāh (عز وجل) has made a cause for something else (sabab). For example, murder is a cause for the establishment of Islamic punishment; the beginning of Ramaḍān is a sabab (cause) for the fasting being wājib.

Uṣūlul-Fiqh studies a number of affairs:

- The conditions necessary to perform certain acts of worship, how we understand them, the different types of condition, and so on. For example, a person is not able to pray except with the manifestation of the conditions of the Ṣalāh, such as covering the ‘awrah, being in a state of purity etc.
- It likewise studies the Mawāni‘, which are those things that are considered preventative factors from something. For example, the fact that a man was previously married to the mother of a woman is a māni‘ (preventative factor) from marrying that woman.
- The Rukḥṣah, which are those things that Allāh (عز وجل) has made an allowance in. For example, it is permissible for the one who is upon a journey or the one who is ill to leave his fasting until another day. Likewise, the one who is upon a journey is able to join his Ṣalāh.
- The ‘Azā‘im, which relates to how affairs were revealed and how they should be performed. For example, Ṣalāh was revealed to be performed in a particular manner. When a person performs Ṣalātul-Maghrib at the time of maghrib in the correct state, then he has carried it out in accordance with ‘azīmah i.e., in accordance with the origin in which that action is to be carried out.
- Aṣ-Ṣiḥḥatu wal-Buṭlān, referring to that which renders an action ṣaḥīḥ (sound) and that which renders an action null and void.

In the study of Uṣūlul-Fiqh, we have evidences that the scholars have agreed upon and evidences the scholars have disagreed upon.

The evidences that the scholars have agreed upon are:

- The Book (i.e., the Qur’ān)
- The Sunnah

- Ijmā'
- Qiyās.

As for the evidences that the scholars disagree upon:

- Al-Iḥstiḥsān
- Al-Maṣāliḥ al-Murṣalāh, which are those new affairs that require a ruling from the things that did not occur at the time of the Prophet (صلى الله عليه وسلم).
- Al-'Urf
- Al-Istiḥāb, which revolves around the origin of affairs. What is the origin of a piece of garment? Is it pure, or is the origin that is in impure? What is the origin of a patch of land? Is the origin with that patch of land ṭahārah or do we consider it impure until we know of its purity? If we have no evidence for a particular issue, can we work purely on the basis of an origin. Is it considered an evidence?
- Shar' man Qablanā (legislations that came before us)
Is the Sharī'ah that has come before us considered Sharī'ah for us, and do we act upon it if there is nothing that opposes it from our Sharī'ah?

And so, Uṣūlul-Fiqh is the essential science that every single Ṭālibul-'Ilm must know and study if he intends to truly understand the Fiqh of the Sharī'ah. There is also al-Qawā'id al-Fiqhiyyah (the principles that are taken from collective rulings) wherein the scholars look at the Sharī'ah wholistically. They see that in many affairs the Prophet (صلى الله عليه وسلم) would work upon a particular principle and so they would extrapolate that principle and consider it a principle that may be acted upon because the Messenger (صلى الله عليه وسلم) acted upon this thing in many areas. Or we have verses where Allāh has encouraged a particular thing in many areas/issues. And so because of its presence in all of these affairs, the scholars consider this a principle that may be acted upon.

The Development of Fiqh After the Prophet (صلى الله عليه وسلم)

At the time of the Prophet (صلى الله عليه وسلم), we had the legislation and revelation of the text, which of course ended with the death of the Messenger of Allāh (صلى الله عليه وسلم). We thereafter had the development of what are known as the levels of the development of Fiqh, from the time of the Ṣaḥābah up until the manifestation of the Islamic Fiqh as we know it.

The Era of the Ṣaḥābah

In the era of the Ṣaḥābah there was somewhere in the region of 130 of the Companions who were considered People of Fatwá, as mentioned by Imām Ibn Ḥazm, Imām Ibnul-Qayyim in *ʿĀlam al-Muwaqqiʿīn*, and others. The scholars categorised them into three main categories:

1. The Mukthirūn

They are those who there are numerous verdicts from them in many issues. They are seven in number:

- ʿUmar
- ʿAlī
- Ibn Masʿūd
- ʿĀʾishah
- Zayd b. Thābit
- Ibn ʿAbbās
- Ibn ʿUmar.

These are not Mukthirūn in narrating ḥadīth; that is a slightly different subject. Here, they are Mukthirūn as it relates to fatwá. And you will see that from them are those who were Mukthirūn in Riwayah (who narrated many of the aḥādīth of the Messenger (صلى الله عليه وسلم)), such as ʿĀʾishah, Ibn ʿAbbās and ʿAbdullāh b. ʿUmar.

2. The Mutawassiṭūn

They are those who were not as plentiful in giving fatwá as the first seven, and they are thirteen in number:

- Abū Bakr aṣ-Ṣiddīq
- ‘Uthmān
- Umm Salamah
- Anas b. Mālik
- Abū Sa‘īd
- Abū Hurayrah
- ‘Abdullāh b. ‘Amr b. al-‘Āṣ
- ‘Abdullāh b. Zubayr
- Abū Mūsá al-Ash‘arī
- Mu‘ādh b. Jabal
- Jābir b. ‘Abdillāh
- Sa‘d b. Abī Waqqās
- Salmān al-Fārisī.

3. The Muqillūn

They are those who there came from them a verdict here, a verdict there but they were not like the first two categories. And they are the remaining of the 130 Companions, such as:

- Abū Dardā’
- al-Ḥasan
- al-Ḥusayn
- ‘Ubayy b. Ka‘b
- Abū Ayyūb al-Anṣārī

- Asmā' b. Abī Bakr
- Zayd b. Arqam
- Thawbān, and so on.

During the era of the Ṣaḥābah we had the development of Fiqh in that they conveyed that which they took and understood from the Messenger of Allāh (صلى الله عليه وسلم) as fatāwá. And oftentimes many of these fatāwá would actually be aḥādīth. Imām Ibnul-Qayyim (رحمه الله) mentions in *A'lām al-Muwaqqi'īn* that many of the fatāwá of the Ṣaḥābah were word for word aḥādīth of the Messenger (صلى الله عليه وسلم) but they had taqwá in narrating from the Messenger of Allāh (صلى الله عليه وسلم) and feared saying that the Messenger (صلى الله عليه وسلم) said. It has been reported concerning 'Abdullāh b. Mas'ūd (رضى الله عنه) that he would narrate from the Prophet (صلى الله عليه وسلم) and he would always say *أو كما قال* (he said something like this) or *أو نحو ذلك* (he said something of that nature), even though he narrated word for word from the Messenger (صلى الله عليه وسلم). They were extremely cautious, fearing the statement of the Prophet (صلى الله عليه وسلم), "Whomsoever narrates from me that which I did not say, then let them take their seat in the Hellfire." They were afraid that they would add a wāw (و) for example where the Prophet (صلى الله عليه وسلم) did not use that letter and thus, a lot of the time, their fatāwá were actual wordings of the Messenger (صلى الله عليه وسلم).

So during this era we had the development of the fatāwá that came from the Companions (رضى الله عنهم), and these fatāwá have been collected in a number of authorships. We always say as people of Sunnah and Salafiyyah, let us return back to the statements of the Salaf. But the question that should arise is, well where are they? Where can I find them? From the books

that gather these statements, explanations and fatāwá that have come from the Companions (رضى الله عنهم) are:

- *Al-Muṣannaf* of al-Imām Ibn Abī Shaybah, which is from the most important of those works.
- *Al-Muṣannaf* of ‘Abdur-Razzāq aṣ-Ṣan‘ānī. This, as well as *al-Muṣannaf* of al-Imām Ibn Abī Shaybah are from the greatest and largest compendiums that gather the statements of the Salaf concerning the issues of Fiqh.
- *As-Sunan al-Kubrā* of al-Imām al-Bayhaqī, a hugely important book that not only gathers aḥādīth but many of the statements of the Ṣaḥābah relating to issues of Fiqh.
- *Al-Awsaṭ* of al-Imām Ibn Mundhir, wherein he gathers the statements of the Ṣaḥābah with chain of narration.

The previous books mentioned similarly gather these statements with chain of narration, and this is of major importance because oftentimes you will find a statement attributed to one of the Ṣaḥābah but there is no chain of narration that the People of Ḥadīth are able to trace back and ascertain whether or not it is authentic.

- *As-Sunan* of Sā‘īd b. Manṣūr.
- And then there are those books that were not necessarily authored in Fiqh but you will find the aqwāl (statements) of the Ṣaḥābah al-Fiqhiyyah present within them, such as the Tafsīr of al-Imām aṭ-Ṭabarī or the Tafsīr of al-Imām Ibn Abī Ḥātim. You will find many statements of the Salaf regarding the āyāt of aḥkām and the āyāt that relate to Fiqh.

The Era of the Tābi‘īn

After the era of the Ṣaḥābah we had the era of the Tābi‘īn. And the Tābi‘īn for the most part revolved around four Madāris (Schools). These were the areas where you found the Fuqahā’ among the Tābi‘īn:

1. Al-Madīnah

At the head of them were those referred to as the Fuqahā’ as-Sab‘ah (the Seven Jurists). There are some lines of poetry that some of the People of Knowledge mention, “When it is said concerning Fiqh that there are seven oceans [of knowledge] that their statements do not leave ‘ilm. That you should say that they are ‘Ubaydullāh, ‘Urwah, Qāsim, Sa‘īd, Abū Bakr, Sulaymān and Khārijah.” i.e., the statements of the People of Knowledge return back to that which has come from these seven, although, of course, there are many statements outside of the statements of these seven but these lines of poetry indicate how great they were in gathering the statements of the Companions and that which the Messenger (صلى الله عليه وسلم) were upon. From the Fuqahā’ of al-Madīnah were:

- ‘Ubaydullāh b. ‘Abdillāh b. ‘Utbah
- ‘Urwah b. Zubayr
- Qāsim b. Muḥammad b. Abī Bakr
- Sa‘īd b. al-Musayyib
- Abū Bakr b. Ḥazm
- Sulaymān b. Yasār
- Khārijah
- Sālim b. ‘Abdillāh b. ‘Umar
- Nāfi‘, Mawlā Ibn ‘Umar
- Imām az-Zuhrī.

So no doubt, al-Madīnah was a hotspot for Fuqahā', for 'ilm and we had the greatest of the scholars during that era present within that region. But that does not eliminate other regions.

2. Makkah

Here we had the students of 'Abdullāh b. al-'Abbās (رضى الله عنهما), the likes of:

- 'Aṭā' b. Abī Rabāḥ
- Ṭāwūs b. Kaysān
- Mujāhid
- 'Ikrimah

3. Baṣrah

Here we had:

- al-Ḥasan al-Baṣrī
- Muḥammad b. Sīrīn
- Abū Qilābah
- Imām Qatādah b. Da'āmah as-Sadūsī.

4. Kūfah

Here we had the students of 'Abdullāh b. Mas'ūd, the likes of:

- Alqamah, and his student Ibrāhīm an-Nakhaī
- Masrūq
- 'Abīdah
- Shurayḥ al-Qāḍī, who though he had some issues in terms of Ḥadīth and is considered weak by many of the scholars of Ḥadīth, was an Imām in Fiqh and in judging.

These were the Schools that were present during the era of the Tābi'īn.

The Development of the Four Schools of Thought

Thereafter we had the era of the *Atba' at-Tābi'in* and the development of the Schools of Thought. The scholars who the Schools of Thought are attributed to were students of students of the Companions, or students of students of students of the Companions.

So how did the School of Thought develop? Did the Imām say I am going to write a School of Thought and this is something I want the Ummah to follow? The one who studies their biographies will find that though Allāh (عز وجل) had blessed them with being oceans of knowledge, they were the humblest of people and the furthest from writing a School of Thought that they attribute to themselves and demand that the Ummah should follow it. Rather, they were 'Ulamā', and of course people asked them questions. Those questions and their answers were penned down and recorded by their students and conveyed. And in general, this is what became the School of Thought.

Just as we have in our time, ash-Shaykh al-Albānī, ash-Shaykh 'Abdul-'Azīz b. Bāz, ash-Shaykh Muḥammad b. Ṣāliḥ al-'Uthaymīn; issues were posed to them and they responded, particularly as it relates to those things that are relative to our era and were not previously present. In this case, we will sometimes argue and debate and say Shaykh al-Albānī held this and Shaykh al-'Uthaymīn held that. This discussion was similar to that which occurred during the era of the four Imāms when issues related to Fiqh arose. And so the responses given by the Imāms were collected and penned down by their students.

We will mention a very brief chronological outline of that which is related to the four Schools.

Imām Abū Ḥanīfah (رحمه الله)

In some writings, you will find that he is attributed to being from among the *Tābi'in*; however, there is dispute concerning whether or not that is the case. Some hold that he saw

Anas b. Mālik—even though he did not narrate from him—which they say enters him into the realms of the Tābi‘īn. Then there are those from Ahlul-‘Ilm who held that one must have taken from the Ṣaḥābah to be entered into the realm of the Tābi‘īn, and so there is some difference concerning that.

Al-Imām Abū Ḥanīfah was born in the year 80H and passed away in the year 150H.

From his teachers were:

- ‘Ikrimah
- ‘Aṭā’ b. Abī Rabāḥ
- Ḥammād b. Abī Sulaymān.

From his students were:

- Abū Yūsuf al-Qāḍī
- Muḥammad b. Ḥasan ash-Shaybānī
- Zufar b. Hudhayl
- Ḥasan b. Ziyād al-Lu’luī.

Though from the Schools of Thought, Imām Abū Ḥanīfah had the least knowledge of Ḥadīth, it was well known that he was extremely intelligent.

Abū Ḥanīfah had two main students: al-Qāḍī Abū Yūsuf and Muḥammad b. Ḥasan ash-Shaybānī. There is some discussion as to whether or not Abū Ḥanīfah actually wrote a work in Fiqh, and that which many of the People of Knowledge conclude is that his students wrote and narrated from him, gathered his responses to issues and then conveyed them.

As it relates Abū Ḥanīfah, the scholars mention that the first type of authorship that occurred in relation to his madhhab were the books written by Muḥammad b. Ḥasan ash-Shaybānī. He wrote six books, which are referred to as the *Kutub Zāhir ar-Riwāyah*. They are:

1. *Al-Aṣl*, which is also known as *al-Mabsūṭ*
2. *Al-Jāmi‘ al-Kabīr*
3. *Al-Jāmi‘ aṣ-Ṣaghīr*
4. *As-Sayr al-Kabīr*
5. *As-Sayr aṣ-Ṣaghīr*
6. *Az-Ziyādāt*

These six books were the origins of the *aqwāl* (statements) that have been attributed to Abū Ḥanīfah. As mentioned, there is much scepticism as to whether Abū Ḥanīfah actually wrote a book in *Fiqh* at all, but these writings are most definitely attributed to him by way of Muḥammad b. Ḥasan ash-Shaybānī.

Imām Mālik (رحمه الله)

Al-Imām Mālik b. Anas b. Mālik al-Aṣbaḥī, Imām Dārul-Hijrah, was born in the year 93H in al-Madīnah. It was said concerning Imām Mālik that from the four Imāms he was the only one that did not travel for knowledge. Rather, Imām Mālik remained in al-Madīnah and took from the scholars of Madīnah who were oceans of knowledge.

From his teachers were:

- ‘Abdur-Raḥmān b. Hurmuz, also known as al-A‘raj, the student of Abū Hurayrah (رضى الله عنه)
- Nāfi‘, the Mawlá of Ibn ‘Umar
- Muḥammad b. Shihāb az-Zuhrī
- Yaḥyá b. Sa‘īd al-Anṣārī
- Rabī‘ah b. Abī ‘Abdur-Raḥmān, who was also known as Rabī‘atur-Ra‘ī. He was from the most prominent of his shuyūkh, particularly in the affairs of *Fiqh*.

From his students were:

- ‘Abdullāh b. Wahb
- ‘Abdur-Raḥmān b. Qāsim
- Asad b. Furāt
- Yaḥyá b. Yaḥyá al-Laythī

These students narrated to those who came to seek knowledge in Madīnah and either were not able to meet al-Imām Mālik or were not able to receive the riwāyāt that they had. From those riwāyāt (narrations) is the great book and authorship of al-Imām Mālik: *Al-Muwaṭṭa’*. In essence, *al-Muwaṭṭa’* is a book of Ḥadīth and a book of Fiqh, and is to be added to the list of books we mentioned previously that gather the statements of the Ṣaḥābah. The *Muwaṭṭa’* of al-Imām Mālik not only gathers aḥādīth but it similarly gathers the statements of the Ṣaḥābah and the Tābi‘īn. So even though al-Imām Mālik did not write a book of Fiqh, the book *al-Muwaṭṭa’* was considered his contribution and his work around Fiqh, and it was on this basis that many of the People of Knowledge travelled to Imām Mālik to study with him and in particular to narrate the *Muwaṭṭa’* from him. From the most popular of his students was Yaḥyá b. Yaḥyá al-Laythī, who was the one that the narration of the *Muwaṭṭa’* is popularly attributed to, though there were many who narrated the *Muwaṭṭa’*, and we have their versions of the *Muwaṭṭa’* to this very day.

But in any case, the riwāyah of Yaḥyá b. Yaḥyá al-Laythī was taken and conveyed by many of the A‘immah and was used by Imām Ibn ‘Abdil-Barr—who was an Imām in Ḥadīth and attributed to the Mālikī Madhhab—as the basis for his books *at-Tamhīd* (which concentrated upon that which is connected to the narrations present in *al-Muwaṭṭa’*) and *al-Istidhkār* (which concentrate more on the actual statements of the Fuqahā’ and that which is present within the book from Fiqh).

The development of the madhhab of Imām Mālik revolved around questions that were posed to him and then compiled by his students ‘Abdur-Raḥmān b. al-Qāsim (who spent over 20 years with Imām Mālik) and Asad b. Furāt.

One of the students of ‘Abdur-Raḥmān b. Qāsim and Asad b. Furāt, an Imām known as as-Siḥnūn, came to them and asked them to narrate these questions and answers from al-Imām Mālik, which he gathered into a book known as *al-Mudawwanah* (the Compilation).

Imām ash-Shāfi‘ī (رحمه الله)

He was born in al-Gazzah (Gaza) in the year 150H and passed away in the year 204H. Al-Imām ash-Shāfi‘ī was a student of al-Imām Mālik and memorised the *Muwaṭṭa’* when he was 10 years old; he memorised the Qur’ān when he was seven. He visited Imām Mālik and requested that he recite to him the *Muwaṭṭa’*; he recited the whole of the *Muwaṭṭa’* to Imām Mālik, who was amazed with his precision and memory.

Al-Imām ash-Shāfi‘ī was considered from the A’immah of the Arabic language and was also well known for his intelligence and quick responses.

From his teachers were:

- Imām Mālik
- Muslim b. Khālīd al-Makhzūmī
- Muḥammad b. Ḥasan ash-Shaybānī
- Yaḥyá b. Ḥassān
- Sufyān b. ‘Uyaynah

From his students were:

- Ishāq b. Rāhūyah
- Imām Aḥmad b. Ḥanbal

- Ismā'īl b. Yaḥyá al-Muzanī
- Rabī b. Sulaymān al-Murādī

It is said that al-Imām ash-Shāfi'ī was the first of the scholars to author a book in Uṣūlul-Fiqh. His book *ar-Risālah* was considered the first book that was authored in Uṣūlul-Fiqh. In fact, the great Muḥaqqiq of the book (the one who checked the book) Shaykh Aḥmad Shākir mentioned that in actuality al-Imām ash-Shāfi'ī was the first one to author a book in 'Ilmul-Ḥadīth likewise.

Imām Aḥmad (رحمه الله)

He was born in the year 164H and studied with an array of the greatest of the scholars of Ḥadīth. But as it relates to Fiqh, from his teachers were:

- Abū Yūsuf al-Qāḍī
- Hushaym b. Bashīr
- Sufyān b. 'Uyaynah
- 'Abdur-Razzāq aṣ-Ṣan'ānī
- Yaḥyá b. Sa'īd al-Qaṭṭān
- 'Abdur-Raḥmān b. Mihrān

These were all scholars of Ḥadīth, but Fuqahā' at the same time.

Al-Imām Aḥmad's writings in Fiqh revolved around his writings in Ḥadīth. Again, we see that from the four Imāms were those who understood and conveyed to their students that true Fiqh is that which has come from the Messenger (صلى الله عليه وسلم), and the correct understanding of that.

Imām Aḥmad was approached by many of his students who would ask questions concerning what he held in relation to certain issues, so his madhhab developed on the basis of this.

Thus, we had the Su'alāt of his son Ṣāliḥ, the Su'alāt of his son 'Abdullāh, the Masā'il of his son Ṣāliḥ, the Masā'il of 'Abdullāh, the Masā'il of Abū Dāwūd as-Sijistānī and numerous writings that were attributed to al-Imām Aḥmad from his responses to certain questions. They were gathered and conveyed, and these questions that were compiled by his students were what went on to become the madhhab of al-Imām Aḥmad.

These four Imāms (Imām Mālik, Imām Abū Ḥanīfah, Imām ash-Shāfi'ī and Imām Aḥmad), while they did not write any books around the madhhab or in what would conventionally be known as Fiqh and the Masā'ilul-Fiqhiyyah, generally, we had authorships in Ḥadīth. This was the case with Imām Mālik, Imām Aḥmad and even the book of al-Imām ash-Shāfi'ī *al-Umm*. While it is a book in Fiqh, it is a book that is filled with riwāyah and the narration of ḥadīth, which will cause us to understand that the methodology of the Scholars of Fiqh in essence was the methodology of the People of Ḥadīth. And these early scholars were 'Ulamā' of Ḥadīth for the most part.

And so, you see this trait that continued throughout all four of the Schools: the Imāms themselves did not write a book and compel the Ummah to follow it. Rather, we found that those A'immaḥ would say, "If my madhhab goes against the ḥadīth of the Messenger of Allāh (صلى الله عليه وسلم), then throw it against the wall."

From the statements attributed to al-Imām Mālik (رحمه الله), "Verily I am but a man; I am right sometimes and I make mistakes. Then you should look to my statements and anything that is in accordance with the Book and the Sunnah, take it. And whatever opposes the Book and the Sunnah, leave it."

Similarly, we have the statement attributed to al-Imām ash-Shāfi'ī (رحمه الله), "The Muslims have consensus that whomsoever it becomes clear to them the Sunnah of the Messenger of

Allāh (صلى الله عليه وسلم), it is not ḥalāl (i.e., it is ḥarām) for him to leave it for the statement of anyone.”

Likewise, we have the statement of Imām Abū Ḥanīfah (رحمه الله), “If a ḥadīth is ṣaḥīḥ, then it is my madhhab.” And his statement, “It is not ḥalāl for anyone to take from our statements if he does not know where we have taken from.” He mentioned in another narration, “It is ḥarām for the one who does not know my evidence to give a fatwá with my kalām.”

There are numerous statements that are attributed to Imām Aḥmad; from them, “Do not blindly follow me, or Mālik, or Shāfi‘ī, or Awzā‘ī, or Thawrī. Rather, you should take from where we have taken.”

There were many Imāms at the same time as Imām Abū Ḥanīfah, Imām Mālik, Imām ash-Shāfi‘ī and Imām Aḥmad but the reason why there was not more than four Schools was because the other A‘immah did not receive that level of service from their students, so you find that many of their madhāhib disappeared or came close to disappearing. The Madhhab of Zufar, the Madhhab of Imām ath-Thawrī, the Madhhab of al-Awzā‘ī and the Madhhab of Layth b. Sa‘d were not collected in the way that the four Imāms had their statements collected, though some of them were as great as the four Imāms.

While we still have the statements of Sufyān ath-Thawrī, Zufar and Abū Thawr for example, they were not preserved in the manner in which these four Imāms had their statements preserved that ultimately became the Schools of Thought.

Imām al-Albānī (رحمه الله) was asked concerning which of the Schools of Thought are closest to the Sunnah of the Messenger of Allāh (صلى الله عليه وسلم) and he mentioned two. He mentioned the Madhhab of Imām ash-Shāfi‘ī and the Madhhab of Imām Aḥmad.

How to Study Fiqh

As we mentioned previously, the affair of Fiqh is connected tightly to Uṣūlul-Fiqh and therefore it is imperative that the Ṭālibul-‘Ilm, alongside the book that he studies in Fiqh, he studies a small introductory work in Uṣūlul-Fiqh, like *al-Warāqāt* of al-Juwaynī for example. He studies this book, he understands the areas of Uṣūl that are related to the language, the commands and prohibitions, principles related to the varying types of evidences, and so on. He studies Uṣūl so that while he is studying Fiqh he is able to understand the statements of the scholars and as he develops, he is better placed to understand the differing that occurs among the scholars because some of that differing returns back to principles that they differed upon. And because they differed upon a principle, they differed upon the application of that principle upon the text.

A small but important book for the Ṭālib to know when he approaches studying Fiqh is *Raf‘ul Malām ‘anil-A‘immatil A‘lām* of Shaykhul-Islām Ibn Taymiyyah (رحمه الله) where he gathered the varying reasons the scholars differ.

There are two main approaches to studying Fiqh:

1. The approach of the Salaf of this Ummah.

They would study aḥādīth and a well-authored book of Ḥadīth and then their teacher would extrapolate for them the rulings and principles present within those aḥādīth. That is the approach of studying the kutub of Aḥādīthul-Aḥkām i.e., the books that were authored around the aḥādīth related to Fiqh rulings.

From those books we have:

- *‘Umdatul-Aḥkām* of al-Imām ‘Abdul-Ghaniy al-Maqdisī
- *Al-Muntaqá* of Ibn Jārūd
- *Bulūghul-Marām* of al-Imām Ḥāfiẓ Ibn Ḥajar

- *Muntaqal-Akhhbār* of Majd Ibn Taymiyyah (the grandfather of Shaykhul-Islām Ibn Taymiyyah)
- *Al-Muḥarrar* of Ibn ‘Abdil-Hādī.

These books were authored to gather the aḥādīth related to rulings so that the Ṭālibul-‘Ilm is familiar with the evidences for the rulings. Then if one were to move on to bigger books, he would move on to the likes of the *Sunan* of Imām Abū Dāwūd, since the reason behind him authoring this work was to gather the adillah of the ‘Ulamā’il-Amṣār (the evidences that were used by the scholars of the varying regions).

This first approach of studying aḥādīth and then taking the rulings and benefits present within them is a longer method but is far more beneficial in that the Ṭālib does not only receive benefits in Fiqh, but he receives all sorts of benefit that are present within a particular ḥadīth. He may have one ḥadīth that discusses a particular issue but there are some twenty, thirty, forty other side issues that are connected and present within that ḥadīth. And so studying Aḥādīthul-Aḥkām, extrapolating the Fiqh and other issues and rulings present within them is a hugely beneficial method, which is the approach of Ahlul-Ḥadīth throughout time. And this in essence is the beginning of the Mujtahid; that a person begins by studying the evidences.

That is how we studied in the Faculty of Ḥadīth. We studied the likes of *Nayl al-Awṭār*, which was the explanation of Imām ash-Shawkānī of the book *Muntaqal-Akhhbār*, and the approach is that we look at the ḥadīth, we then study that which is present within the ḥadīth concerning its chain of narration, are there any issues with the ḥadīth, what have the Scholars of Ḥadīth said concerning its authenticity, are there any issues with its wording and what have you. Secondly, that we approach the wording of the ḥadīth; what is present within the ḥadīth from wording and what does this

wording indicate. We may see that when analysed alongside other aḥādīth, that this particular wording in and of itself is not the conclusive issue when coupled with other evidences. So the student is trained upon extrapolating evidences based upon what this wording indicates. Thereafter, we look at what the scholars have said about the ḥadīth and how they have explained it; then one looks at the statements of the Schools or if there were any differences of opinion concerning issues that are present within the ḥadīth.

2. Understanding and being familiar with the small texts that have been authored around Fiqh. The scholars, particularly those that are attributed to these Schools of Thought, have authored books that are summaries of that which is present in the larger books of Fiqh.

Some of these texts include:

- From the Madhhab of Abū Ḥanīfah: *Mukhtaṣir al-Qudūrī*.
- From the Madhhab of Imām Mālik: *Mukhtaṣar Khalīl*.
- From the Madhhab of Imām ash-Shāfi'ī: *Matn al-Minhāj*, *Matn al-Ghāyah wat-Taqrīb*.
- From the Madhhab of al-Imām Aḥmad b. Ḥanbal: *Zādul-Mustaḥṣin* of al-Ḥajāwī, which is an abbreviated version of the book *al-Muḥṣin* of al-Imām Ibn Qudāmah, which was explained by Shaykh Ibn 'Uthaymīn in his book *Sharḥul-Mumtī*. And likewise, *Dalīl aṭ-Ṭālib*.

These small books are the conclusion and extreme summaries of the larger works that were written by the scholars of the Madhhab. And so the one who studies these books is taught the evidences and arguments that the issues mentioned in the book are based upon. When he becomes familiar with this text, that generally establishes for him a firm foundation in the issues of Fiqh.

So this method revolves around the concise texts that ordinarily have no evidences within them. For example, the author says that water is of two types, that wuḍū is done like this, that ṣiyām (fasting) is like this; he just mentions the issues without any evidence. The intent is not to nurture the Ṭālib upon not familiarising himself with the evidence—though that is how those texts have been used by those who believe in Taqlīd (blindly following)—the intent behind those authorships is to write a small book that the student can go on to study and learn the evidences for these issues mentioned by our scholars. So initially, he familiarises himself with the text and his teacher teaches him the evidences. Thus, it is not just to take the texts without evidences, blindly follow them and consider himself Shāfiī or Ḥanbalī or Ḥanafī or Mālikī. Rather, our scholars have permitted studying the likes of these books with the condition that he studies them with the evidences and that he does not attribute himself to the Madhhab. Rather, he studies the text just to get an understanding of Fiqh and establish his feet in that which is connected to Ṣalāh, Zakāh, Ṣiyām, Ḥajj, marriage, divorce, Ḥudūd (the prescribed punishments), blood money, and so on. He then develops and continues with the larger works and familiarises himself more and more with the Sunnah of the Messenger of Allāh (صلى الله عليه وسلم), alongside studying Uṣūlul-Fiqh.

Another approach is to take one of the texts that were written not by anyone who attributes himself to a madhhab but by the Muḥaqqiqūn and Scholars of Ḥadīth. These texts are the likes of *ad-Durar al-Bahīyah* of al-Imām ash-Shawkānī, which is similar to these texts that have been attributed to the Schools of Thought, but his intent was to write a text that was free of the issues that were based in weak aḥādīth. *Ad-Durar al-Bahīyah* is not as detailed as some of the other texts that are attributed

to the madhāhib, but for the most part, the issues that are discussed within it return back to the methodology of Ahlul-Ḥadīth in their approach in Fiqh.

There are no evidences within *ad-Durar al-Bahīyah*, but Imām ash-Shawkānī then went on to write an explanation of the book wherein he gathered all of the evidences for every issue he mentioned. This book is known as *ad-Dirār al-Maḍīyyah*. Al-Imām Ṣiddīq Ḥassan Khān later authored a book titled *ar-Rawḍah an-Nadiyyah*, which was an explanation of *ad-Durar al-Bahīyah*. He added footnotes and some commentary, as well as the evidences for everything al-Imām ash-Shawkānī mentioned.

So any one of these two approaches will be of benefit to the Student of Knowledge. As we mentioned, the approach of studying the aḥādīth is perhaps slightly longer depending on the book of Ḥadīth he studies. If he begins with *‘Umdatul-Aḥkām*, as is the advice of the People of Knowledge, then he studies somewhere in the region of 300-400 ḥadīth, depending upon the numbering system used by the one who checked the print the student is using, and those aḥādīth are all agreed upon by both al-Imām al-Bukhārī and Imām Muslim.

The Categories of People in Relation to Fiqh

Al-Imām ash-Shawkānī (رحمه الله) categorises the people into three main categories:

1. The Mujtahid

The Mujtahidūn are of two types: al-Mujtahid al-Muṭlaq and al-Mujtahid al-Juz’ī or al-Muqayyad. The Mujtahid is the one that is able to pass a verdict on a situation based upon his vast knowledge of Ḥadīth and Sunnah and the āyāt of the Qur’ān. From the conditions to be deemed a Mujtahid are:

- He should be a person of knowledge in relation to the Arabic language and Naḥw (Arabic Grammar). Not that he is an ‘Ālim in Arabic Grammar, but he has enough ‘ilm that facilitates for him correct understanding of the texts he reads and to understand

the statements of Allāh (عز وجل) in the Qur'ān, the statements of the Prophet (صلى الله عليه) in the Sunnah, as well as the statements of the Ṣaḥābah (رضى الله عنهم) and the Salaf.

- He should be knowledgeable in the science of Uṣūlul-Fiqh because it is by way of this science that he will extrapolate the rulings from the text.
- He should have knowledge in relation to Uṣūl al-Ḥadīth, Muṣṭalaḥul-Ḥadīth, that which is related to authentication of ḥadīth, the science of Jarḥ wa Ta'dīl and other than that
- He should have knowledge of Uṣūlut-Tafsīr, 'Ulūmul-Qur'ān, Asbābun-Nuzūl and the rulings that are extrapolated from the Qur'ān. What is most correct is that he does not have to be a ḥāfiẓ—of course it is best—but he should be familiar with the Āyātul-Aḥkām.
- He should be familiar with Ijmā' (consensus) and the places where the scholars have Ijmā'.
- He should be familiar with the Nāsikh and the Mansūkh of the Qur'ān and Sunnah (those verses and aḥādīth that have been abrogated) such that he does not pass a verdict in accordance with something that has been abrogated.
- Generally, he should have enough intelligence to be able to correctly utilise the knowledge he possesses to extrapolate from the texts.

Shaykhul-Islām Ibn Taymiyyah mentions that the Mujtahid does not necessarily have to be an 'Ālim in every single field of the Dīn, but he should have the conditions of Ijtihād in the area that he wishes to make Ijtihād in.

2. The Muqallid (Blind Follower)

As we have seen, the scholars have generally warned against Taqlīd. The origin is that the person walks upon Baṣīrah (clear-sightedness) with his Dīn, having knowledge of the text and the evidences and being able to explain that. We are all familiar with the

statements of al-Imām Muḥammad b. Abdul-Wahhāb (رحمه الله) in Uṣūl ath-Thalāthah, “Know, may Allāh show you mercy, that is wājib upon us to have knowledge of three things: The first of them, to have knowledge of Allāh, to have knowledge of the Messenger (صلى الله عليه وسلم) and to have knowledge of the Dīn of al-Islām with its evidences.”

Even though the People of Sunnah are against Taqlīd, there are instances where an individual may be forced to make Taqlīd. For example, the one who cannot read and write or does not have the ability to study because of a particular level of intelligence, he may have to make Taqlīd in some affairs.

Shaykh al-Albānī (رحمه الله) mentioned that it may even be the case that the ‘Ālim may have to make Taqlīd in some issues. He mentioned as an example that which is related to the statement of Anas b. Mālik (رضي الله عنه) in relation to drinking standing up, “And we used to hold eating standing up to be worse.” There is no ḥadīth around the affair but as Shaykh al-Albānī mentions, it is sufficient for us to rely upon this authentic statement of Anas b. Mālik and accept it. And so here we have accepted a statement and acted upon it without evidence, but it overwhelms our suspicions that this has come from that which was present at the time of the Prophet (صلى الله عليه وسلم) and that which the Companions understood since he said “We held”.

Moreover, it may be that a person finds himself in a position where he has to make Taqlīd. For example, he went for Ḥajj, did not prepare by studying the rulings of Ḥajj completely and so he finds himself at a loss regarding what to do after stoning the Jamrah. In this situation he may have to ask the one who is most apparently the best in terms of his religion in order to continue with this act of ‘ibādah (worship). If he is able to seek and obtain evidence for his action then that is best, but in this restricted

circumstance, it may well be that he may have to rely upon the statement of this individual.

So there are certain restricted circumstances where a person may have to make Taqlīd, but the origin is that we do not hold Taqlīd to be permissible in the manner in which many of the Aṣḥāb al-Madhāhib hold it to be permissible. In fact, they say it is wājib in our time because the era of the Mujtahidūn has ended and now the only thing upon us is Taqlīd, which is bāṭil.

3. The Muttabi'

The Muttabi' is one that is between the two previous categories. He is a Ṭālibul-'Ilm on the path of seeking knowledge. He understands and is familiar with the texts of the Kitāb and the Sunnah, with some of the principles of the Dīn, statements of the scholars and the Arabic Language; he may have some basis although he is not a Mujtahid. When an issue is presented to this individual with its evidences, he is able to understand it. He is one that makes Ittibā' of the evidences (he follows the evidences). His following of the evidences revolves around him studying the statements of the scholars with their arguments and evidences, which he acts upon. And then if something comes along that is stronger and closer to the Sunnah, there is no shame in him leaving his previous position and following that which is clearly closer to what is correct.

Many of the people say that the People of Sunnah have developed a fifth School of Thought—that is bāṭil. This is the statement of the one who has no idea concerning exactly what it is we call to. Our call is to return back to the way of the Salaf, which is to return back to the very same thing each of the Imāms of the Schools of Thought called us back to. These Imāms would say to return back to the Kitāb and Sunnah, to what the Ṣaḥābah and Salaf used to say and understand the Kitāb and Sunnah with the understanding of the Ṣaḥābah (رضى الله عنهم).

Now, instead of taking their advice, people blindly follow them, and that was never what they intended or wanted. As we mentioned, they themselves did not develop a School of Thought; it was their students that went on to pen down their responses to certain issues and that became the Schools of Thought that were followed by the people. And so, this method of study that we have mentioned sees the student returning back to the statements of the Salaf as much as is humanly possible, and taking from that.

Fiqh al-Muqāran

This is a more developed method of studying Fiqh, where a person studies and compares the varying Schools of Thought, what they held, their arguments and their evidences. However, it is not advised that the Student of Knowledge enters into studying Fiqh by studying Fiqh al-Muqāran. Rather, the origin is that he gains his foundation in Fiqh by using one of the two methods mentioned, or preferably both. Once he has found his feet in relation to understanding the issues with their evidences, then as he develops, he may go on to study Fiqh al-Muqāran. He would be able to look at a particular issue and then analyse what the varying Schools held in relation to it. Did they unite upon it or did they differ? If they differed, what did they differ about? What are the evidences for their differing?

You will find this approach in the likes of *al-Ifṣāḥ* of Ibn Hubayrah or *Bidāyatul-Mujtahid wan-Nihāyatul-Muqtaṣid* of al-Imām Ibn Rushd. These books gathered the varying statements and analysed them alongside each other. Some of the larger books of the madhāhib such as *al-Mughnī* of Ibn Qudāmah, *al-Majmūʿ* of al-Imām an-Nawawī, *al-Maḥallā* of Imām Ibn Ḥazm or even *al-Umm* of Imām ash-Shāfiʿī gathered the varying statements of the Schools of Thought, debated those statements and then came to a conclusion. However, this is not the approach of the one who starts out seeking knowledge of Fiqh. Rather, he should find his feet first by studying one of the texts written by the Muḥaqqiqūn, the likes of

ad-Durar al-Bahiyyah or *Minhāj as-Sālikīn* of al-Imām Shaykh ‘Abdur-Raḥmān Ibn Sa’dī. He should study these books that were authored in accordance with the position of the Scholars of Ḥadīth and then study the explanations of these books, looking for their evidences and studying the principles that are present within them.

والحمد لله رب العالمين